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THE
JUSTICE'S MANUAL

FOR THE
STATE OF MINNESOTA.

A COMPLETE GUIDE FOR JUSTICES OF THE PEACE AND CONSTABLES IN THEIR VARIOUS DUTIES UNDER REVISED LAWS, 1905, AND GENERAL LAWS, 1905, 1907 AND 1909.

BY WALTER S. BOOTH,

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FIFTEENTH EDITION.

MINNEAPOLIS, MINN.
WALTER S. BOOTH & SON, PUBLISHERS.
1909.

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INTRODUCTORY.

In presenting to the public, this, the Fifteenth Edition of Booth's Justice Manual, containing all the laws pertaining to Justices of the Peace and Constables, and their duties, as contained in the Revised Laws, 1905, and General Laws, 1905, 1907 and 1909, a few words of explanation and instruction will not be out of place.

The revision of the statutes was provided for under an act of the Legislature, being Chapter 241, General Laws, 1901, under which the Justices of the Supreme Court of the State, were authorized to appoint three persons as a commission to revise, codify and annotate the public statutes of the state, exclusive of the statutes on the subject of taxation, designating one member of said commission to act as chairman.

Hon. Hiram F. Stevens of St. Paul, Hon. Daniel Fish of Minneapolis, and Hon. T. J. Knox of Jackson, were appointed by the Supreme Court,—Mr. Stevens being named as chairman.

The Legislature, by Chapter 157, General Laws 1903, extended the time within which the commission should file its report to December 1, 1904, and added to its labors by requiring its report to contain "all general laws relating to taxation and all laws of a general nature enacted at the extra session of 1902, and at the present session" (1903). It was also to "submit with its report a list of all special, local, and temporary laws, the repeal of which it shall recommend, giving the chapter, number, and title of each."

During the year 1904, Hon. Hiram F. Stevens died, and Hon. M. R. Tyler of St. Paul was appointed to fill the vacancy, Mr. Fish being appointed chairman. The commission made its report to the Legislature of 1905, after the beginning of the session.

The Legislature, after amending the report of the commission, in many respects, determined that the laws as amended should take effect March 1, 1906, under the name "Revised Laws 1905."

The preparation of this Manual has been carefully done, and we believe it can be relied upon as containing correctly to date, all the laws of interest to justices of the peace and constables, in logical order, so arranged and indexed as to afford ready access to all of its contents.

Certain important additions have been made to the Manual, e. g., the Board of Health Laws, the Inspection of Food Laws, the Intoxicating Liquor Laws, the Penal Code and the Game Laws have been more fully given, and the explanatory notes amplified. The effect where conflict occurs between General Laws, 1905, and "Revised Laws, 1905," is expressed by Section 5504, of the latter, as follows:

"These laws shall not be cited, enumerated, or otherwise treated as a session law of the present year, but shall be designated 'Revised Laws, 1905.' They shall take effect on March 1, 1906, but shall not be construed as abrogating any act passed at the session of 1905, all of which so far as they differ from the Revised Laws, shall be construed as amendatory thereof or supplementary thereto."

WALTER S. BOOTH & SON.

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PART FIRST.

LAWS OF MINNESOTA

RELATING TO THE POWERS AND DUTIES OF JUSTICES
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OUS DUTIES UNDER REVISED LAWS 1905, AND
GENERAL LAWS, 1905, 1907 AND 1909.

CHAPTER I.—ELECTION AND QUALIFICATION.

TITLE I.—CONSTITUTIONAL PROVISIONS.

§ 1. **Justices of the peace.**—"The legislature shall provide for the election of a sufficient number of justices of the peace in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law: provided, that no justice of the peace shall have jurisdiction of any civil cause where the amount in controversy shall exceed one hundred dollars, nor in a criminal cause where the punishment shall exceed three months' imprisonment or a fine of over one hundred dollars, nor in any cause involving the title to real estate."—Minn. Constitution, Art. VI, § 8.

§ 2. **Justices can always hold two years.**—The legislature can neither lengthen nor shorten the term of an officer whose term is fixed by the constitution. The term of justices of the peace is fixed by the constitution at two years, as quoted above, and being so fixed, when once duly elected, a justice may hold his office for the full term of two years, whether he was elected to fill a vacancy or not.

§ 3. **Term of office, when it begins.**—The term of office of justices of the peace and constables begins when they are elected, or appointed, and have qualified. That is, when they have taken the oath of office and executed and filed a proper bond. See §§ 7, 8, 10 and 11 of this Manual.

Note to § 3. The "Revised Laws, 1905," is the name given to the "Code" as prepared by the Statute Revision Commission, and amended and passed by the Legislature in 1905, to take effect March 1, 1906, and will be quoted throughout this Manual as "R. L. 1905." The Legislature of 1905, however, passed certain laws, which were not included in "Revised Laws, 1905," and when such laws are quoted or referred to in this Manual, it will be thus, "G. L. 1905," "G. L. 1907," or "G. L. 1909," meaning General Laws, 1905, 1907 or 1909.

TITLE II.—IN ORGANIZED TOWNSHIPS.

§ 4. **Election of justices and constables.**—The following town officers shall be elected by ballot: Three supervisors, one of whom shall be elected each year for the term of three years; one town clerk, one treasurer, one assessor, two justices of the peace, and two constables. All such elections shall take place at the annual meeting.—R. L. 1905, § 668.

§ 5. **Same—How elected—Term.**—There shall be elected at the annual town meeting in each town, three supervisors as hereinafter provided. The supervisors now in office shall hold their office for the full term for which they were elected, according to the provisions of the Laws of 1903. One supervisor shall be elected in the year 1906, for a term of three years, and at each annual town meeting thereafter, there shall be one supervisor elected for a term of three years to fill the place of the one whose term expires at that time. After the expiration of the term for which any such supervisor has been elected chairman under the provisions of said amended act of 1903, the supervisors shall at their first meeting after the annual town meeting thereafter, elect by ballot, one of their number chairman for a term of one year, and each year thereafter shall in the same manner elect their chairman for one year, but a vacancy may be filled by an election for the unexpired term at any meeting of the supervisors. There shall also be elected at the annual town meeting in each year, one town clerk, one treasurer, one assessor, each for a term of one year, and one overseer of highways for each road district in said town for one year, and there shall be elected every two years, two justices of the peace and two constables, each to hold office for a term of two years, and until their successors are elected and qualified, except a vacancy may be filled by election at any annual town meeting.—G. L. 1905, Chap. 243.

§ 6. **Who are eligible.**—“Every person qualified to vote at town meetings is eligible to any town office.”—Minnesota Constitution, Article VII, § 7. Since the constitutional amendment adopted in November, 1896, only the following persons are entitled to vote and to hold office: Native born or fully naturalized citizens of the United States who have been such for the period of three months next preceding any election or town meeting, and who have resided in this state for six months and for thirty days in the election district next preceding any election or town meeting.—Minn. Const., Art. VII, § 1, as amended Nov., 1896.

§ 7. **When to take oath.**—Every supervisor, town clerk, assessor, treasurer, and constable, within ten days after receiving notice of his election or appointment, shall take and subscribe the oath required by law. If taken before the town clerk or a justice of the peace, such oath shall be administered and certified without fee.—R. L. 1905, § 670.

§ 8. **Oath and bond, when filed.**—Before entering upon his duties, the person taking such oath shall file the same with the

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town clerk. Failure to file his oath and bond within the time prescribed by law shall be deemed a refusal to serve.—R. L. 1905, § 671.

§ 9. **Entering before taking oath—Penalty.**—Any town officer who enters upon the duties of his office before taking the oath required by law shall forfeit to the town the sum of \$50.—R. L. 1905, § 673.

§ 10. **Justice's bond.**—Before entering upon his duties and within ten days after he is notified of his election or appointment, every person chosen to the office of justice of the peace shall give bond to the town in a sum not less than \$500 nor more than \$1,000, with sureties approved by the chairman of the town board, conditioned for the faithful discharge of his official duties. The approval of the chairman shall be indorsed on the bond, which, together with his oath of office, such justice shall forthwith file with the clerk of the district court for the benefit of any person aggrieved by his acts, and any person so aggrieved may maintain an action on such bond in his own name against the justice and sureties.—R. L. 1905, § 675.

§ 11. **Constable's bond.**—Before entering upon his duties, and within ten days after he is notified of his election or appointment, every person chosen to the office of constable shall give bond to the town, in a sum directed and with sureties approved by the chairman of the town board, conditioned for the faithful discharge of his official duties. The chairman shall indorse such approval on the bond, and cause it to be filed with the town clerk, for the benefit of any person aggrieved by the acts or omissions of such constable, and any person so aggrieved, or the town, may maintain an action thereon in his own name against such constable and sureties.—R. L. 1905, § 676.

§ 12. **Term of office of justices and constables.**—“Town officers, except assessors, justices of the peace and constables, hold their offices for one year, and until others are elected or appointed in their places, and are qualified. The justices of the peace and constables shall hold their offices for two years, and until others are chosen and qualified.”—Revised Laws, 1905, § 674. The term of office of a justice of the peace and of a constable differs as follows: If either a justice or a constable is appointed, or a constable is elected to fill the vacancy of any unexpired term, the office becomes vacant at the next annual town meeting. But the term of office of a justice of the peace being fixed by the constitution at two years, he may hold his office, when once duly elected, for the full term of two years, and until his successor qualifies, whether he was elected to fill a vacancy of an unexpired term or not.

§ 13. **Resignations.**—The town board, for sufficient cause shown to them, may accept the resignation of any town officer, in which case they shall forthwith give notice thereof to the town clerk.—R. L. 1905, § 678.

§ 14. **Vacancies.**—Whenever a vacancy occurs in any town office, the town board shall fill the same by appointment. The person so appointed shall hold his office until the next annual town meeting and until his successor qualifies: Provided, that vacancies in the office of supervisor shall be filled by the remaining supervisors and town clerk until the next annual town meeting, when his successor shall be elected to hold for the unexpired term.—R. L. 1905, § 679.

§ 15. **Name of justice and constable to be sent to clerk of district court.**—The town clerk shall transmit to the clerk of the district court immediately after the election of any justice of the peace of his town, a written notice stating therein the name of the person elected, and the term for which he was elected, and, if elected to fill a vacancy, the name of the last incumbent of the office, and likewise the name of every constable, after he shall have qualified, and, upon the resignation of a justice or constable, to immediately transmit to such clerk notice thereof.—R. L. 1905, § 660, Sub. div. 5.

The above section states the law applicable to township justices and constables. Village justices and constables shall be governed by the same laws as those of towns. See § § 22 and 24.

TITLE III.—IN COUNTIES WITHOUT ORGANIZED TOWNSHIPS.

§ 16. **Election districts.**—Whenever any part of a county is not organized into towns, the county board, at their meetings in either January or July, upon the petition of not less than ten legal voters residing more than ten miles from the polling place in any established election district, shall create and establish out of such unorganized territory an election district, and designate a polling place therein at such point as will be most convenient for the persons so petitioning; but no such polling place shall be located within ten miles of any other existing polling place.—R. L. 1905, § 443.

§ 17. **Judges of election.**—Such board, at its last session before an election, shall appoint judges of election for each district so established, and thereupon cause notice to be posted in at least three of the most public places in such county, containing a complete list of all such districts, with the names of the several judges of election therein.—R. L. 1905, § 444.

§ 18. **Justices and constables.**—In each election district so established there shall be elected at the general election two justices of the peace and two constables, whose term of office shall be two years. Any vacancy that may occur in either of such offices shall be filled by appointment by such board.—R. L. 1905, § 445.

§ 19. **Oaths and papers, where filed.**—In counties not divided into towns, the official oaths and other papers required by law

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to be filed in the office of the town clerk shall be filed with the register of deeds.—R. L. 1905, § 446.

§ 20. **Existing charters preserved.**—“Until otherwise provided in accordance with this sub-division, all cities existing at the time of the taking effect of the Revised Laws shall continue to be governed by the laws then applicable thereto.”—R. L. 1905, § 747.

TITLE IV.—IN INCORPORATED CITIES.

The chapter of the Revised Laws relating to towns provides (Revised Laws, Sec. 692): “Nothing in this chapter contained shall apply to territory embraced within any city or village, but each such city and village shall have and exercise within its limits all the powers conferred by this chapter upon towns.”

So that in cities with special charters, the jurisdiction of justices is as therein provided. In others, it is governed by the general law. Where no other or special provisions provide therefor, it is the same as that of justices in towns.

TITLE V.—IN INCORPORATED VILLAGES.

§ 21. **Elections—Officers—Terms—Vacancies.** — The village election shall occur annually on the second Tuesday of March, when the resident electors shall choose the following named officers for terms beginning the first Tuesday in April next succeeding, to-wit: A treasurer, and a village council composed of a president, a clerk, and three trustees; and, if said village is a separate election district, an assessor, all for the term of one year. Also two constables, and, if there be no municipal court established in the village, two justices of the peace, all for the term of two years. All officers chosen, having qualified as such, shall hold until their successors qualify. Vacancies in office may be filled for the remainder of the year by the village council.—R. L. 1905, § 711.

§ 22. **Constables—Duties—Compensation.** — Constables shall give bonds to the village, to be approved by the council, similar to those required of town constables, and be governed by the same laws. They shall obey all lawful orders of the council, or the president thereof, and diligently enforce all laws and ordinances for the preservation of the peace. They may arrest, with or without a warrant, and forthwith take before a village justice, any person engaged in the commission of a public offense, and may command, if necessary, the assistance of bystanders. They shall receive for their services the same fees allowed to other constables, and, for special services to the village, such compensation as the council may fix.—R. L. 1905, § 720.

§ 23. **Peace officers.**—The president and the trustees shall be peace officers, and may suppress in a summary manner any riotous or disorderly conduct in the streets or other public places of the village, and may command the assistance of all persons.

under such penalties as may be prescribed by the by-laws and ordinances.—R. L. 1905, § 721.

§ 24. **Justices—Powers—Duties—Fees.**—Village justices of the peace shall possess all the powers of those elected by the town, and be governed in the exercise thereof by the same laws, in all respects, except that their official bonds shall run to the village and be approved by the council. They may also hear and determine accusations made against persons for the violation of any ordinance, by-law or regulation of the village, and upon conviction may impose the penalties prescribed. They shall have such other jurisdiction and authority as is by this chapter conferred or implied and receive for their services the fees allowed by law to justices of the towns; provided, that in all cases where a village is situated in more than one county, the justices of the peace and constables of such village shall have and possess all powers and jurisdiction conferred on justices and constables of the towns in each of the counties in which such village is situated, and may issue and serve processes in each of such counties, and shall file their bonds in each of said counties.—R. L. 1905, § 722, as amended, G. L. 1907, Chap. 459.

§ 25. **Term of office of justices and constables.**—“The justices of the peace and constables shall hold their offices for two years, and until their successors qualify.”—R. L. 1905, § 674. The term of office of a justice of the peace and a constable differs as follows: If either a justice or a constable is appointed, or a constable is elected to fill the vacancy of any unexpired term, the office becomes vacant at the next annual village election. But the term of office of a justice of the peace being fixed by the constitution at two years, he may hold his office, when once duly elected, for the full term of two years, and until his successor is elected and qualified, whether he was elected to fill a vacancy of an unexpired term or not.

§ 26. **Prosecutions by village.**—All prosecutions for violation of the ordinances, rules, or by-laws of any village shall be brought in the name of the village, upon complaint and warrant, as in other criminal cases. If the accused be arrested without a warrant, a written complaint shall thereafter be made, to which he shall be required to plead, and a warrant shall issue thereon. The warrant and all other process in such cases shall be directed to the village marshal, or the sheriff or any constable of the county or village, but the marshal shall serve no such process except within the village.—R. L. 1905, § 723.

§ 27. **Pleading—Evidence—Judgment.**—It shall be a sufficient pleading of the by-laws, rules, or ordinances of a village to refer to the section and number or chapter thereof. They shall have the effect of general laws within the village, and need not be given in evidence upon the trial of civil or criminal actions. Judgment shall be given, if for the plaintiff, for the amount of fine, penalty, or forfeiture imposed, with the costs; and the judg-

ment shall also direct that, in default of payment, the defendant be committed to the common jail of the county for such time, not exceeding ninety days, as the court shall see fit. The commitment shall state the amount of judgment, the costs, and the period of commitment. Every person so committed shall be received by the keeper of the jail, and kept at the expense of the county, until lawfully discharged. The committing court may release the defendant at any time upon payment of such fine and costs.—R. L. 1905, § 724.

§ 28. **Appeals.**—Appeals may be taken to the district court in the same manner as from judgments of justices of the peace in civil actions, but, if taken by the defendant, he shall give bond to the village to be approved by the court, conditioned that, if the judgment be affirmed in whole or in part, he will pay the same, and all costs and damages awarded against him on such appeal. In case of such affirmance, execution may issue against both defendant and his sureties. Upon perfection of such appeal, defendant shall be discharged from custody.—R. L. 1905, § 725.

§ 29. **Fines, fees, etc.**—All fines, forfeitures, and penalties recovered for the violation of any ordinance, rule, or by-law of the village, and all moneys paid for licenses and permits, shall be paid into the village treasury. Every court or officer receiving the same, within thirty days thereafter, shall make return thereof under oath, and be entitled to duplicate receipts therefor, one of which shall be filed with the village clerk.—R. L. 1905, § 726.

TITLE VI.—RULES OF CONSTRUCTION.

§ 30. **Rules of construction.**—In constructing statutes, the following rules shall govern, unless their observance would involve a construction inconsistent with the manifest intent of the legislature, or repugnant to the context of the same statute:

1. Words and phrases not especially defined shall be construed according to the common and approved usage of the language, but technical or other words and phrases which have acquired a peculiar and appropriate meaning in the law, shall be given such meaning; and clerical and typographical errors shall be disregarded when the intent is clear.

2. Words importing the singular number may extend and be applied to several persons or things; words importing the plural may include the singular, and words importing the masculine gender, may be applied to females.

3. Words purporting to give a joint authority to three or more public officers or other persons shall be construed as conferring such authority upon a majority of them, unless it shall be otherwise expressly declared in the law giving the same.—R. L. 1905, § 5513.

§ 31. **Particular words and phrases.**—The following words and phrases, used in the Revised Laws or in future legislative

acts, shall have the meaning herein given, unless another intention clearly appears:

4. **Folio.**—The word "folio" shall mean 100 words, counting as a word each figure necessarily used. If there be fewer than 100 words in all, the paper shall be computed as one folio; likewise any excess over the last full folio.

5. **Highway.**—The word "highway" shall include roads laid out by the state or United States authority, or by any town or county, and all bridges thereon.

6. **Holidays.**—The word "holiday" shall include New Year's Day, January 1st; Lincoln's Birthday, February 12th; Washington's Birthday, February 22nd; Memorial Day, May 30th; Independence Day, July 4th; Labor Day, the first Monday in September; election day, the first Tuesday after the first Monday in November of the even numbered years, and Christmas Day, December 25; and the Friday next preceding Easter Sunday and commonly known as Good Friday. No public business shall be transacted on these days, except in cases of necessity, nor shall any civil process be served thereon.

11. **Person.**—The word "person" may extend and be applied to bodies politic and corporate, and to partnerships and other unincorporated associations.

12. **Population.**—The word "population" and the word "inhabitants," when used in reference to population, shall mean that shown by the last preceding census, state or United States, unless otherwise expressly provided.

13. **Preceding—Following.**—The word "preceding" or "following," when used with reference to any section of the Revised Laws, shall mean the section last preceding or next following, unless some other section is expressly designated in such reference.

14. **Published and posted notice.**—The words "published notice," when used in reference to the giving of notice, or the serving of a summons, order or process in judicial proceedings, shall mean the publication in full of the notice or other paper referred to in the regular issues of a qualified newspaper, once in each week, and at uniform intervals, for the number of weeks specified. The term "posted notice," when similarly used, shall mean the posting, at the beginning of the prescribed period of notice, of a copy of the document referred to, in a manner likely to attract attention, in each of three of the most public places within the district to which the subject matter of such notice relates. And a "qualified newspaper" shall be one published in the county wherein the notice or service is required to be given or made, or, if there be none, then in an adjoining county, and conforming to the requirements of the following section.

15. **Recorded—Filed for record.**—When an instrument in writing is required or permitted to be filed for record with, or recorded by, any officer, the same imports that it must be record-

ed by such officer in a suitable book kept for that purpose, unless otherwise expressly directed.

16. **Seal.**—When the seal of a court, public office or corporation, is required by law, to be affixed to any paper, the word “seal” shall include an impression thereof upon the paper alone, as well as an impression on a wafer, wax or other substance thereto attached.

18. **Sheriff.**—The word “sheriff” may be extended to any person performing the duties of a sheriff, either generally or in special cases.

19. **Time—Month—Year—A. D.**—The words “month” and “year” shall mean a calendar month or year, unless otherwise expressed; and the word “year” shall be equivalent to the expression “year of our Lord.”

21. **Time—How computed.**—In computing the time within which an act is required or permitted to be done, the first day shall be excluded and the last included, unless the last shall fall on Sunday or on a holiday, in which case the prescribed time shall be extended so as to include the first business day thereafter.

22. **Town.**—The word “town” may include cities, villages, and districts, unless such construction would be repugnant to the provisions of any act especially relating thereto.

24. **Writing.**—The words “written” and “in writing” may include any mode of representing words and letters, except that signatures, when required by law, must be in the handwriting of the person, or, if he be unable to write, his mark, or his name written by some person at his request and in his presence.—R. L. 1905, § 5514, as amended, G. L. 1907, Chap. 254.

CHAPTER II.—JUSTICES' COURTS—CIVIL JURISDICTION.

TITLE I.—CIVIL JURISDICTION.

§ 32. **Jurisdiction defined.**—Jurisdiction is the power to hear, try and determine a cause. The jurisdiction of a justice of the peace is a special and limited jurisdiction, and all his powers and authority are derived from the statutes, and he must confine himself in the trial of causes within the limits prescribed by statute, and beyond those limits he has no authority whatever. And he must have jurisdiction both of the parties to an action and of the subject matter of the action. Where a justice takes cognizance of a cause without having jurisdiction of the parties and of the subject matter his proceedings are wholly void, and the magistrate or other officer who attempts to enforce a judgment founded on any such void proceeding is a trespasser.

§ 33. **Limited to county—Exceptions.**—The jurisdiction of justices of the peace is co-extensive with the limits of the county in which they reside, except in the following cases:

1. Writs of attachment may be directed to the proper officer in any county for the purpose of causing an attachment of property therein.

2. Garnishee process may run into, and be served on the garnishee, in any county.

Provided, that this section shall not affect the jurisdiction of any city justice or justice of the peace under the charter of any city or village situated in two or more counties.—R. L. 1905, § 3882.

§ 34. **Jurisdiction over certain waters.**—That all courts and officers now having and exercising jurisdiction in any county or counties which are now formed or which may hereafter be formed in any part of this state bordering upon Big Stone Lake, Lake Traverse or the Red River of the North, shall have and exercise jurisdiction in all civil and criminal cases upon such waters concurrently with the courts and officers of other states bordering on such waters, so far and to such extent as the said bodies of water or either of them shall form a common boundary between this state and any other state.—G. L. 1905, Chap. 242, § 1.

§ 35. **Common boundary.**—The concurrent territorial jurisdiction of any such county and of all courts and officers exercising jurisdiction throughout the same, shall extend over such water area as would be included if the boundary lines of such county were produced in the direction of their approach and extended across said waters to the opposite shore.—G. L. 1905, Chap. 242, § 2.

§ 36. **Limitations of jurisdiction.**—With the exceptions prescribed in section 33, the civil process of a justice can only be

served within the county in which he resides, and he must exercise his jurisdiction strictly within the limits prescribed by statute. In every case he must acquire jurisdiction of the person of the defendant by issuing the proper process and cause it to be legally served and a proper return thereof to be made by the officer. If any affidavit or bond is required by statute before the issuing of process, the justice will acquire no jurisdiction until these statutory requirements are complied with.

§ 37. Place of holding court.—Every justice of the peace shall keep his office in the town, village, city, or ward for which he is elected; but he may issue process in any place in the county, and, in his discretion, for the convenience of parties, may make any civil or criminal process issued by him returnable, and may hold his court at any place which he shall appoint in the town, village or ward within his county adjoining the town or ward in which he resides, or in any village located within his town.—R. L. 1905, § 3883.

The effect of this section is to require a justice to transact his judicial business in the town, city, or ward for which he is elected, except that he may issue process in any place in his county, and may, in his discretion, for the convenience of parties, make any process issue by him returnable, and may hold any court which he is by law authorized to hold at any place appointed by him in a town adjoining the town for which he is elected, or a ward adjoining the ward for which he is elected, as the case may be, provided the place so appointed is within his county.

§ 38. Officers to post list—Penalty.—Every officer whose fees are fixed by this chapter shall post in some conspicuous place in his office a printed list thereof for the inspection of the public. Failure so to do shall render him liable to a forfeiture of \$2 for each day of such failure, to be recovered in a civil action in the name of any citizen, before a justice of the peace.—R. L. 1905, § 2716.

§ 39. Not hold office in saloon or with attorney.—No justice of the peace shall hold his office or court in any saloon, nor in any room adjacent to a saloon, or connecting therewith by door or otherwise. Nor shall he hold his office in the same room with a practicing attorney unless such attorney is his law partner, and in that case such partner shall not appear or act as an attorney in any case before such justice.—R. L. 1905, § 3884.

§ 40. Powers—Laws applicable.—A justice of the peace may hold a court for the trial of all actions in the next section enumerated, and hear, try, and determine the same; and for that purpose, where no special provision is otherwise made by law, such court shall have all the powers possessed by courts of record, and all laws of a general nature shall apply to such justice's court, so far as the same are applicable and not inconsistent with the provisions of this chapter; but no justice of the peace shall charge the jury.—R. L. 1905, § 3885.

§ 41. **Actions within jurisdiction.**—Such justice shall have jurisdiction of the following actions and proceedings:

1. An action arising on contract, for the recovery of money only, if the sum claimed does not exceed \$100.

2. An action for damages for an injury to the person or to real property, or for taking, detaining, or injuring personal property, if the damages claimed, or, in replevin, the value of the property in controversy, does not exceed \$100.

3. An action for a penalty given by statute, not exceeding \$100.

4. An action upon a bond conditioned for the payment of money not exceeding \$100, though the penalty exceeds that sum; the judgment to be given for the sum actually due. When the payments are to be made by installments, an action may be brought for each as it becomes due.

5. An action upon an official bond, or bond taken by him, if the penalty does not exceed \$100.

6. To take and enter judgment on the confession of a defendant, when the amount does not exceed \$100.—R. L. 1905, § 3886.

§ 42. **Actions not within jurisdiction.**—The jurisdiction conferred by the last section does not extend, however, to a civil action:

1. In a cause involving the title to real estate.

2. Nor for false imprisonment, libel, slander, malicious prosecution, criminal conversation, or seduction, or upon a promise to marry.

3. Nor for an action against an executor, administrator, or guardian, as such.—R. L. 1905, § 3887.

§ 43. **Action, where brought.**—Actions shall in all cases be brought in the town, village, or city where the plaintiff or defendant, or one of several plaintiffs or defendants, resides, or where an attorney at law, licensed to practice in courts of record, representing plaintiff in the action, resides, or at the county seat. If the defendant does not reside in the state, the action may be brought in any town, village, or city in the county in which he is found. If there be no justice in the proper town, the action may be brought before any justice in an adjoining town in the same county.—R. L. 1905, § 3888.

§ 44. **Judgment, when void.**—Justices must not infer that they have any authority not expressly given in plain terms by the statutes: and if they act upon any subject matter of which the statute has given them no jurisdiction, all their proceedings in that matter are as absolutely void as though they were not justices at all. Consent may confer jurisdiction over persons, but never over subject matter. Where a justice has no jurisdiction, the judgment and all his acts are void and cannot be enforced; but if he has jurisdiction and errs in exercising it, the judgment and all his acts are valid, until set aside by appeal or otherwise.

CHAPTER III.—ACTIONS.

TITLE I.—FORMS OF ACTIONS.

§ 45. **But one form of action—Parties how styled.**—The distinction between actions at law and suits in equity, and the forms of such actions and suits, are abolished. There shall be in this state but one form of action for the enforcement or protection of private rights and the redress of private wrongs. This shall be called a civil action, and the party complaining shall be styled the plaintiff, and the adverse party the defendant.—R. L. 1905, § 4052.

TITLE II.—PARTIES TO ACTIONS.

§ 46. **Real party in interest to sue—When one may sue or defend for all.**—Except when otherwise expressly provided by law every action shall be prosecuted in the name of the real party in interest; but this section shall not authorize the assignment of a thing in action not arising out of contract: Provided, that when the question is one of common or general interest to many persons, or when those who might be made parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all.—R. L. 1905, § 4053.

§ 47. **Action by assignee—Set-off saved—Exception.**—If a thing in action be assigned, an action thereon by the assignee shall be without prejudice to any set-off or defense existing at the time or before notice of the assignment; but this section does not apply to negotiable paper, transferred in good faith and upon good consideration before due.—R. L. 1905, § 4054.

§ 48. **Executor, trustee, etc., may sue alone.**—An executor, administrator, or guardian, a trustee of an express trust, or a person expressly authorized by statute to sue, may sue without joining with him the person for whose benefit the action is brought. And a person with whom, or in whose name, a contract is made for the benefit of another, is a trustee of an express trust, within the meaning of this section.—R. L. 1905, § 4055.

§ 49. **Married women may sue or be sued alone.**—In cases where the husband, except for the marriage relation, would not be a necessary party, a married woman may sue and be sued as if unmarried and without joining her husband. And if a woman marry while a party to a pending action, she shall thereafter be designated by her married name.—R. L. 1905, § 4056.

§ 50. **Infants and insane persons—Guardians ad litem.**—When an infant or insane person is a party, he must appear by guardian, who shall be appointed by the court in which the action is prosecuted, or by a judge thereof. Such guardian shall be a

resident of this state, and shall file with the clerk his consent to such appointment, before the same shall take effect, and in case of the plaintiff such consent shall be so filed before the issuing of the summons in the action. Before he shall receive any money or other property of the party, such guardian shall also file a bond, as security therefor, in such form and with such sureties as the court shall prescribe and approve.—R. L. 1905, § 4057.

§ 51. **Parent or guardian may sue for injury to child or ward—How action is to be commenced—Bond of guardian.**—A father, or, in case of his death or desertion of his family, the mother, may maintain an action for the injury of a minor child, and a general guardian may maintain an action for the injury of his ward. Provided, that if no such action is brought by the father or mother, an action for such injury may be maintained by a guardian ad litem, either before or after the death of such parent. Before any such parent receive any money or other property in settlement or compromise of any action so brought, or in satisfaction of any judgment obtained therein, such parent shall file a bond as security therefor, in such form and with such sureties as the court shall prescribe and approve; and no settlement or compromise of any such action shall be valid unless the same shall be approved by a judge of the court in which such action is pending.—R. L. 1905, § 4060, as amended, G. L. 1907, Chap. 58.

§ 52. **Deserted wife may sue and defend in husband's name.**—When a husband has deserted his family, the wife may prosecute or defend, in his name, any action which he might have prosecuted or defended, and shall have the same powers and rights therein as he might have had.—R. L. 1905, § 4061.

§ 53. **Joinder of parties to instrument.**—Persons severally liable upon the same obligation or instrument, including parties to bills of exchange and promissory notes, and sureties on the same instrument, may all or any of them be included in the same action, at the option of the plaintiff.—R. L. 1905, § 4062.

§ 54. **Surety may bring action.**—An action may be brought against two or more persons for the purpose of compelling one to satisfy a debt due to the other, for which the plaintiff is bound as surety.—R. L. 1905, § 4063.

§ 55. **Action not to abate by death, etc.—Torts.**—No action shall abate by reason of the death or disability of a party, or the transfer of his interest, if the cause of action continues or survives. In such cases the court, on motion, may substitute the representative or successor in interest, or in cases of transfer of interest, may allow the action to proceed in the name of the original party. And after a verdict, decision, or report of a referee, fixing the amount of damages for a wrong, such action shall not abate by the death of any party thereto.—R. L. 1905, § 4064.

§ 56. **Exemption from civil action.**—No member, officer, or employe of either branch of the legislature shall be liable in a

civil action on account of any act done by him in pursuance of his duty as such legislator.—R. L. 1905, § 4065.

§ 57. **Actions against receivers, etc.**—Any receiver, assignee, or other person appointed by a court to hold or manage property under its direction may be sued on account of any of his acts or transactions in carrying on the business connected with such property, without prior leave of court.—R. L. 1905, § 4066.

§ 58. **Same—How tried, and judgment, how satisfied.**—Such action may be brought in any county in which it could have been brought against the person or corporation represented by such receiver or other person, shall be tried in the same manner and subject to the same rules of procedure, and any judgment recovered therein against such receiver or other person shall be paid by him as a part of the expenses of managing such property.—R. L. 1905, § 4067.

§ 59. **Actions against associates under common name.**—When two or more persons transact business as associates and under a common name, whether such name comprise the names of such persons or not, they may be sued by such common name, and the summons may be served on one or more of them. The judgment in such case shall bind the joint property of all the associates, the same as though all had been named as defendants.—R. L. 1905, § 4068.

TITLE III.—LIMITATION OF ACTIONS.

§ 60. **General rule—Exceptions.**—Actions can only be commenced within the periods prescribed in this chapter, after the cause of action accrues, except where, in special cases, a different limitation is prescribed by statute.—R. L. 1905, § 4071.

§ 61. **Bar applies to state, etc.—Exception.**—Such limitation shall apply to actions by or in behalf of the state and the several political divisions thereof: Provided, that no occupant of a public way, levee, square, or other ground dedicated or appropriated to public use shall acquire, by reason of his occupancy, and title thereto.—R. L. 1905, § 4072.

§ 62. **Recovery of real estate, fifteen years.**—No action for the recovery of real estate, or the possession thereof, shall be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the premises in question within fifteen years before the beginning of the action.—R. L. 1905, § 4073.

§ 63. **Foreclosure of real estate mortgages.**—No action to foreclose a real estate mortgage shall be maintained unless begun within fifteen years after the maturity of the whole of the debts secured by said mortgage. And this limitation shall not be extended by the non-residence of any defendant in such action, nor by reason of any payment made after such maturity.—R. L. 1905, § 4074.

§ 64. Limitation of time for real estate mortgage foreclosures.—No action or proceeding to foreclose a real estate mortgage, whether by action or advertisement, or otherwise, shall be maintained unless commenced within fifteen years from the maturity of the whole of the debt secured by said mortgage, and this limitation shall not be extended by the non-residence of any plaintiff or defendant or any party interested in the land upon which said mortgage is a lien in any action commenced to foreclose such mortgage, nor by reason of any payment made after such maturity, nor by reason of any extension of the time of payment of said mortgage or the debt or obligation thereby secured or any portion thereof, unless such extension shall be in writing and shall have been recorded in the same office in which the original mortgage is recorded, within the limitation period herein provided or prior to the expiration of any previously recorded extension of such mortgage or debt, nor by reason of any disability of any party interested in said mortgage.—G. L. 1909, Chap. 181, § 1.

§ 65. To run from date of first publication.—The time within which any such action or proceeding may be commenced shall begin to run from the date of such mortgage, unless the time of the maturity of the debt or obligation secured by such mortgage shall be clearly stated in such mortgage.

Any action or proceeding to foreclose a real estate mortgage whether by action, by advertisement or otherwise, commenced within the period of limitation herein provided, may be prosecuted to completion, notwithstanding the expiration of said period of limitation, and proceedings to foreclose a real estate mortgage by advertisement shall be deemed commenced on the date of the first publication of the notice of sale. Nothing herein contained shall apply to any action or proceeding now pending.—G. L. 1909, Chap. 181, § 2.

§ 67. Judgments, ten years.—No action shall be maintained upon a judgment or decree of a court of the United States, or of any state or territory thereof, unless begun within ten years after the entry of such judgment.—R. L. 1905, § 4075.

§ 68. Various cases, six years.—The following actions shall be commenced within six years:

1. Upon a contract or other obligation, express or implied, as to which no other limitation is expressly prescribed.
2. Upon a liability created by statute, other than those arising upon a penalty or forfeiture.
3. For a trespass upon real estate.
4. For taking, detaining, or injuring personal property, including actions for the specific recovery thereof.

Note to § § 62, 63, 68, 69 and 70.—Of course not every case specified in these sections is within the jurisdiction of a justice. We have given the sections of the Revised Laws entire; section 41 enumerates cases within the jurisdiction of a justice, and section 42 those which are not.

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5. For criminal conversation, or for any other injury to the person or rights of another, not arising on contract, and not hereinafter enumerated.

6. For relief on the ground of fraud, in which case the cause of action shall not be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud.

7. To enforce a trust or compel a trustee to account, where he has neglected to discharge the trust, or claims to have fully performed it, or has repudiated the trust relation.

8. Against sureties upon the official bond of any public officer, whether of the state or of any county, town, school district, or municipality therein; in which case the limitation shall not begin to run until the term of such officer for which the bond was given shall have expired.—R. L. 1905, § 4076.

§ 69. **Against sheriffs, et al.—Forfeitures, three years.**—The following actions shall be commenced within three years:

1. Against a sheriff, coroner, or constable for any act done in his official capacity and in virtue of his office, or for any omission of an official duty, including the non-payment of money collected or received on a judgment or execution.

2. Upon a statute for a penalty or forfeiture to the party aggrieved.—R. L. 1905, § 4077.

§ 70. **Various actions, two years.**—The following actions shall be commenced within two years:

1. For libel, slander, assault, battery, false imprisonment, or other tort resulting in personal injury.

2. Upon a statute for a penalty or forfeiture to the state.

3. For damages caused by a milldam; but, as against one holding under the pre-emption or homestead laws, such limitation shall not begin to run until a patent has been issued for the land so damaged.

4. Against a master for breach of an indenture of apprenticeship; the limitation, in such case, to run from the expiration of the term of service.—R. L. 1905, § 4078.

§ 71. **Mutual accounts.**—If the action be to recover a balance due upon a mutual, open, and current account, and there have been reciprocal demands between the parties, the limitation shall begin to run from the date of the last item proved on either side.—R. L. 1905, § 4079.

§ 72. **For a penalty given to prosecutor.**—Every action upon a statute for a penalty given in whole or in part to the person who prosecutes therefor shall be commenced by such party within one year after the commission of the offense; but, if the action is not commenced within one year by a private party, it may be commenced within two years thereafter on behalf of the state by the attorney general or the county attorney of the county where the offense was committed.—R. L. 1905, § 4080.

§ 73. **When action deemed begun—Pendency.**—For the purposes of this subdivision, an action shall be considered as begun

against each defendant when the summons is served on him, or on a co-defendant who is a joint contractor or otherwise united in interest with him, or is delivered to the proper officer for such service; but, as against any defendant not served within the period of limitation such delivery shall be ineffectual, unless within sixty days thereafter the summons be actually served on him or the first publication thereof be made. And when an action is begun it shall be deemed pending until the final judgment therein has been satisfied.—R. L. 1905, § 4081.

§ 74. **Effect of absence from state.**—If, when a cause of action accrues against a person, he is out of the state, an action may be commenced within the times herein limited after his return to the state; and if, after a cause of action accrues, he departs from and resides out of the state, the time of his absence is not part of the time limited for the commencement of the action.—R. L. 1905, § 4082.

§ 75. **When cause of action accrues out of state.**—When a cause of action has arisen outside of this state, and, by the laws of the place where it arose, an action thereon is there barred by lapse of time, no such action shall be maintained in this state unless the plaintiff be a citizen of the state who has owned the cause of action ever since it accrued.—R. L. 1905, § 4083.

§ 76. **Periods of disability not counted.**—Any of the following grounds of disability, existing at the time when a cause of action accrued, shall suspend the running of the period of limitation, until the same is removed: Provided, that such period, except in the case of infancy, shall not be extended for more than five years, nor in any case for more than one year, after the disability ceases:

1. That the plaintiff is within the age of 21 years.
2. His insanity.
3. His imprisonment on a criminal charge, or under sentence of a criminal court for a term less than his natural life.
4. Is an alien and the subject or citizen of a country at war with the United States.
5. When the beginning of the action is stayed by injunction or by statutory prohibition.

And if two or more disabilities shall coexist, the suspension shall continue until all are removed.—R. L. 1905, § 4084.

§ 77. **Period between death of party and granting of letters.**—The time which elapses between the death of a person and the granting of letters testamentary or of administration on his estate, not exceeding six months, and a period of six months after the granting of such letters, are not to be deemed any part of the time limited for the commencement of actions by executors or administrators. If the death occur within the last year of the period of limitation, the action may be commenced by the personal representative at any time within one year after such death. And

if a cause of action survive against a decedent, which is not required by law to be presented to the probate court, an action may be brought thereon against the personal representative of such decedent at any time within one year after the granting of letters testamentary or of administration.—R. L. 1905, § 4085.

§ 78. **New promise must be in writing.**—No acknowledgment or promise shall be evidence of a new or continuing contract sufficient to take the case out of the operation of this chapter, unless the same is contained in some writing signed by the party to be charged thereby; but this section shall not alter the effect of a payment of principal or interest.—R. L. 1905, § 4086.

§ 79. **New action in case of reversal.**—If judgment be recovered by plaintiff in an action begun within the prescribed period of limitation, and such judgment be afterward arrested or reversed on error or appeal, the plaintiff may begin a new action within one year after such reversal or arrest.—R. L. 1905, § 4087.

TITLE IV.—VENUE OF CIVIL ACTIONS.

§ 80. **Cost bond—Recognizances—Non-residents.** — Actions upon bonds for costs given in any civil action or proceeding by a non-resident plaintiff, as provided by law, and upon any recognizance by a party or witness in any criminal prosecution, or on any security for costs given in justice court, shall be tried in the county where such bond or security is filed, unless the court, for cause other than the residence of the defendant shall change the venue. An action against a non-resident defendant proceeded against by attachment may be brought in any county wherein such defendant has property liable to attachment.—R. L. 1905, § 4091.

§ 81. **Replevin.**—Actions to recover the possession of personal property wrongfully taken shall be tried in the county in which the taking occurred, or, at plaintiff's election, in the county in which he resides; in other cases in the county in which the property is situated.—R. L. 1905, § 4092.

§ 82. **Other cases, residence of defendant to govern.**—All actions not enumerated in the preceding five sections shall be tried in a county in which one or more of the defendants resided when the action was begun. If none of the parties shall reside or be found in the state, or the defendant be a foreign corporation, the action may be begun and tried in any county which the plaintiff shall designate. A domestic corporation shall be considered as residing in any county wherein it has an office, agent or business place.—R. L. 1905, § 4095.

TITLE V.—COMMENCEMENT OF ACTIONS—SERVICE AND RETURN OF PROCESS.

§ 83. **Docket—Contents.**—Every justice of the peace shall keep a docket in which he shall enter:

1. The title of all causes commenced before him.

2. The time when the process issued, the nature thereof, when returnable, and the return of the officer.

3. The time when the parties appeared before him.

4. A brief statement of the nature of the plaintiff's demand, and the amount claimed, and, if any set-off was pleaded, a similar statement thereof.

5. Every adjournment, stating at whose request, and to what time and place.

6. The time when the trial was had, and whether the same was by jury or by the justice.

7. The verdict of the jury, and when rendered.

8. The judgment, the time of issuing execution, the name of the officer to whom delivered, an account of the debt, damages, and costs, and the fees due to each person, separately.

9. The fact that an appeal was taken and allowed, and the time thereof.

10. Satisfaction of judgment, when made.

11. All questions of law raised by either party, the order made by the court thereon, any exception taken to such order, and all other matters that are material.—R. L. 1905, § 3889.

§ 84. **Requisites of justice's docket.**—The justice's docket must contain all the facts in every case showing complete jurisdiction throughout, both of the person and of the cause of action. As soon as the process is returned served, the justice should enter in his docket the cause properly entitled; that is, with the names in full of the parties to the action, plaintiff and defendant, the name of the county in which the action is brought, and the name of the justice before whom it is brought. If either party is an infant or guardian, or a co-partnership, or sues or is sued in a special capacity, the title ought to disclose these facts. He should give the nature of the process, whether summons, writ of replevin, writ of attachment, warrant or other process, the time when it issued, when returnable and the officer's return. On return day the facts of appearance by one or both parties should be entered. If the parties plead orally, the facts as stated in the complaint, answer or reply, and the fact of each of them being verified, should appear. But if the pleadings are in writing, a mere reference to the fact that they are filed is sufficient. It is necessary to the maintenance of jurisdiction that the facts concerning every adjournment should be entered, stating at whose request it was had, and to what time (which includes the hour of the day), and the place to which the cause was adjourned, so also the time when the trial was had, stating whether before a jury or the justice, and if before a jury the time when the verdict was rendered. If a change of venue was taken the docket must show that the cause was transferred to a justice of the peace of the same or an adjoining election district, naming him, but it need not set forth the affidavit for the change of venue, either

verbatim or in substance, in the docket. Every ruling or order he may make, if excepted to, and every important incident occurring during the progress of the trial, should be entered in the order of time in which each occurred. So every material fact required by the eleven subdivisions of the statute from the commencement of the suit to satisfaction of judgment (if it proceeds so far) should be entered, and the docket must always affirmatively show complete jurisdiction. Minutes of testimony taken by the justice need not, however, be entered or copied into the docket. The higher courts on appeal often construe liberally informalities in a justice's docket, and sometimes presume that certain material acts were performed which the docket does not fully disclose, but it is always safer and better, and in fact, the justice's duty, to make such entries in his docket as will show a complete record throughout.

§ 85. **Procuring docket—Disposition of same.**—Every justice who shall not receive a suitable docket from his predecessor in office shall procure one at the expense of his town, and at the expiration of his term deliver the same, together with any docket received from his predecessor, to his successor in office. If at the expiration of his term no successor has been elected, he shall deposit all books, dockets, and papers pertaining to his office with the clerk of the district court of his county, who shall deliver the same to the successor of such justice when called for.—R. L., 1905, § 3890.

§ 86. **Actions, how commenced.**—Actions may be instituted before a justice of the peace, either by the voluntary appearance and agreement of the parties, or by the usual process. When the name of the defendant is not known to the plaintiff, an action may be commenced against him by a fictitious name, and his true name shall be inserted when discovered.—R. L. 1905, § 3891.

§ 87. **Security for costs.**—A justice of the peace, in any action instituted before him, either before or after the process issues, may require of the plaintiff security for costs: and the person giving such security shall sign a memorandum to that effect, which such justice shall keep as a part of the record in the cause, and an action may be maintained thereon before said justice to recover the costs. If the plaintiff refuses to give such security, the justice shall dismiss the action.—R. L. 1905, § 3892.

§ 88. **Statute discretionary.**—A justice should ordinarily issue a summons whenever requested to do so by any person competent to bring an action, without inquiring into the validity of the claim. But the party suing ought to understand that he must advance or be responsible for all fees, for he may fail to get a judgment, or if he does get one, he may fail to collect it. And when an irresponsible person, or one whom he does not know to be responsible, demands a summons, he ought, for his own protection and for that of the officer who is to serve the process, to "require of the plaintiff security for costs," unless the plaintiff

will advance all prospective costs. The statute is discretionary, however, and a poor but honest creditor should not be deprived of his legal remedy, and lose a just claim against his debtor by the rigid enforcement of the above discretionary statute.

§ 89. **Requisites of process.**—Every process issued by a justice shall run in the name of the state of Minnesota, be dated on the day it issues, signed by the justice issuing the same, and directed to the sheriff or any constable of the proper county. It shall be entirely filled up, and have no blank in date or otherwise, when delivered to the officer to be executed. Every process issued by a justice in a civil action shall be returnable not earlier than nine o'clock in the forenoon, nor later than five o'clock in the afternoon, and every summons shall contain a statement of the amount claimed by the plaintiff. Process issued and delivered to the officer to be executed contrary to the provisions of this section shall be void.—R. L. 1905, § 3893.

§ 90. **Time, how computed.**—Time is computed by the statute by excluding the first day and including the last. But fractions of a day are not counted. Thus a summons issued and served at four o'clock Tuesday evening may be returnable at nine o'clock on the next Monday morning. But a summons issued on Monday cannot be returnable before the next Monday.

§ 91. **Summons—Service.**—In all cases not otherwise provided for, the first process shall be a summons commanding the officer to summon the defendant to appear before such justice at a time and place specified therein, not less than six (6) nor more than twenty (20) days from the date thereof, to answer to the plaintiff in a civil action, which shall be served at least six (6) days before the time of appearance therein mentioned by reading the same to the defendant, and delivering a copy thereof to him, if he can be found, and, if not found, by leaving a copy thereof at his last usual place of abode, with a person of suitable age and discretion, then residing therein. No justice of the peace shall issue any summons or other process in a civil action to be served in any city having a population of two hundred thousand or over except executions upon existing judgments and service of summons in accordance with the provisions of section 3973, Revised Laws, 1905, (§ 372) and other service of such process made within any such city shall be void.—R. L. 1905, § 3894, as amended, G. L. 1909, Chap. 348.

§ 92. **How to be served.**—The constable is to find the defendant, if he can, but he is not bound to look for him at any other than his usual place of residence or "last usual place of abode." If he cannot find him he must serve it by leaving a copy at his residence or "last usual place of abode," with some person of suitable age and discretion then residing therein, and at no other place. A person fourteen years old is *prima facie* "of suit-

Note to § 91. See § 372, this Manual.

able age and discretion." It will not do to leave a copy only where he may have been on business, or visiting, or may have stopped on his travels, or to leave one at his workshop with his hired man.

§ 93. **Personal service.**—In the case of personal service, the summons must be actually read to the defendant and a copy delivered to him, unless he expressly waives that formality, or evades the hearing of it by leaving the constable or otherwise. In such cases, information of its contents, or an unsuccessful attempt to read it in the defendant's hearing and leaving a copy, would be a compliance with the statute.

§ 94. **Dwelling house shut.**—If the outer door of the defendant's dwelling house is shut, the constable will be a trespasser if he enters without leave to make service of the summons.

§ 95. **Service of summons—On natural persons.**—Service of the summons on natural persons residing or being within the state shall be made by delivering a copy thereof as follows:

1. To the defendant personally.
2. If the defendant have a resident guardian, appointed for any purpose, to such guardian also.
3. If he be a minor under the age of 14 years, and have no such guardian, to his father also, or to his mother, or, if he have neither within the state, to the person having the control of such minor, or with whom he resides, or by whom he is employed.

But in all such cases it shall be deemed a personal service of the summons if the copy thereof be left at the house of the usual abode of the person to be served, with some person of suitable age and discretion then residing therein.—R. L. 1905, § 4106.

§ 96. **Same—On public corporations, etc.**—Service of a summons upon municipal or quasi municipal corporations shall be made by delivering a copy thereof as follows:

1. If the action be against a city, village, or other incorporated place, to its chief executive officer, or, in his absence, to its clerk.
2. If against a county, to the chairman of the county board or to the county auditor.
3. If against a town, to the chairman of the town board, or to the town clerk.
4. If against a school district, to any member of its board of trustees or other governing body.
5. If against any other public board or body subject to suit, to any member thereof.

And in any of the cases enumerated in this section, if it be made to appear that service cannot be made as herein provided, the court may direct the manner of such service.—R. L. 1905, § 4107.

§ 97. **Same—The state.**—In all actions and proceedings to which the state may lawfully be made a party, the summons and

other papers therein shall be served on the attorney general, or, in his absence, upon one of his assistants.—R. L. 1905, § 4108.

§ 98. **Same—Private corporations.**—1. If the action be against a private domestic corporation, the summons may be served by delivering a copy thereof to its president, vice-president, secretary, cashier, or treasurer, or to any director or managing agent thereof.

2. If such domestic corporation have no officer within the state upon whom service can be so made, of which fact the return of the sheriff that none can be found in his county shall be conclusive evidence, service of the summons upon it may be made by depositing two copies thereof with the secretary of state, which shall be deemed personal service upon such corporation. One of such copies shall be filed by such secretary, and the other forthwith mailed by him to the corporation, if the place of its main office be known to him or be disclosed by the files of his office.

3. If the defendant be a foreign corporation, the summons may be served by delivering a copy to any of its officers or agents within the state; if a foreign insurance corporation, two copies shall be delivered to the insurance commissioner, who shall file one in his office, and forthwith mail the other, postage prepaid, to the defendant at its home office.

4. If such foreign corporation shall have appointed a resident agent authorized to accept service of process, and shall have caused such appointment to be filed and recorded as required or authorized by law, delivery of a copy of the summons to such agent shall be deemed service thereof on such corporation.—R. L. 1905, § 4109.

§ 99. **Same—On railway companies.**—In any action or proceeding against a railway company, whether domestic or foreign, including proceedings under the right of eminent domain, service of the summons and of all notices required to be served therein may be made by delivering a copy thereof to any ticket or freight agent of such company within the county in which the action or proceeding is begun, with the same effect as though made pursuant to the preceding section: Provided that, if such company shall appear in an action by a resident attorney, service shall thereafter be made upon such attorney.—R. L. 1905, § 4110.

§ 100. **Prohibitions.**—Courts of justices of the peace cannot be opened for any purpose on Sunday other than to receive a verdict or discharge a jury, and no officer can legally serve a civil process on Sunday.—R. L. 1905, § 4981-4983 (§ 1162 and § 1164). And no civil process shall be served on any legal holiday.—R. L. 1905, § 5514, sub. div. 6.

§ 101. **Return.**—The constable should make a prompt and accurate return of the service, because the justice cannot proceed until the return, for it is on this that his authority to try the cause depends, if the service be personal; and he must look to the

same source for authority in his future proceedings if the service is by copy. (For forms of returns see Part III.)

§ 102. **Service by publication.**—When the plaintiff or his agent shall make an affidavit stating that the plaintiff has a just cause of action against the defendant, founded upon a contract, express or implied, and that the defendant cannot be found in the state, a justice may order that service be made by three weeks' published notice of the summons, in the form hereinafter prescribed, in either of the following cases:

1. When the defendant, being a resident of the state, has departed therefrom with intent to defraud his creditors or to evade the service of a summons, or keeps himself concealed therein with like intent.

2. When the defendant is not a resident of the state, but has property, real or personal, therein, and the justice has jurisdiction of the action.—R. L. 1905, § 3895.

§ 103. **When returnable—Mailing.**—In such case the summons shall be made returnable in not less than six nor more than twenty days from the expiration of the period of publication, and the justice shall direct a copy of the summons and complaint to be forthwith deposited in the postoffice, with postage prepaid, directed to the defendant at his place of residence, unless it is stated in the affidavit that such residence is not known to the party making the application.—R. L. 1905, § 3896.

§ 104. **Service by private person.**—Every justice issuing any summons authorized by this chapter, upon being satisfied by the affidavit of the party applying therefor, his agent or attorney, that the defendant is about to depart from the state, or is about to dispose of his property with the intention of defrauding his creditors, and setting forth that he has made diligent search for an officer to serve the same, and that no qualified officer can be found in said county to serve such summons in time, may empower any suitable person not a party to the action to serve the same, by an endorsement thereon to the following effect: "At the request, cost, and risk of the plaintiff, I authorize A. B. to serve and return this summons. E. F., Justice of the Peace." And the person so empowered shall possess all the authority of a constable in relation to the service of such summons, and be subject to the same obligations.—R. L. 1905, § 3897.

§ 105. **Failure to execute—False returns.**—If any officer, without showing good cause therefor, shall fail to execute and duly return any process to him delivered, or make a false return, he shall pay to the party injured \$10, and all damages such party may have sustained by reason thereof, to be recovered in a civil action.—R. L. 1905, § 3898.

§ 106. **Service, how proved.**—Service of the summons and other papers shall be proved as follows:

1. If made by the sheriff or other officer thereunto authorized by law, by his certificate; if by any other person, by his affidavit; or

2. By the written admission of the party served;

3. If by published notice, by the affidavit of the printer, or of his foreman or clerk, and by that of the person who mailed a copy of the summons, if one was mailed.

If service be made otherwise than by published notice, the proof shall state the time, place, and manner thereof.—R. L. 1905, § 4114.

§ 107. **Service of notice, etc.**—Where a party who has appeared resides out of the state and has no attorney in the action, the service of notices and other papers may be made by mail if his residence is known; if not known, on the clerk for him. But where a party, whether resident or nonresident, has an attorney in the action, service shall be made upon the attorney instead of the party. And if the attorney shall have removed from the state, such service may be made upon him personally either within or without the state, or by mail if his residence is known, and, if not known, then by mail upon the party, if his residence is known, whether within or without the state. If the residence of neither the party nor his attorney is known, service may be made upon the clerk for the attorney. Provided, that this section shall not apply to the service of a summons or any process, or of any paper to bring a party into contempt.—R. L. 1905, § 4117.

§ 108. **Same—Personal.**—Personal services, within the meaning of the preceding section, shall mean:

1. If upon the attorney, leaving a copy with him; or, if he be absent from his office, with his clerk therein or other person having charge thereof; or, if there be no one in charge of the office, leaving such copy, between the hours of 6 a. m. and 9 p. m., in a conspicuous place therein; or, if the office be closed, leaving it at the house of his usual abode, with some person of suitable age and discretion residing therein.

2. If upon a party, delivering the copy to him, or leaving it at the house of his usual abode, between the hours of 6 a. m. and 9 p. m., with a person of suitable age and discretion residing therein.—R. L. 1905, § 4118.

§ 109. **Same, by mail—When and how made—Effect.**—Service by mail shall be made by depositing a copy of the paper to be served in the post office, addressed to the person on whom service is to be made at his place of residence, with the postage prepaid. Such service may be made whenever the person serving the paper and the person to be served reside in different places, between which there is regular communication by mail. The party so served shall have double the time allowed in case of personal service.—R. L. 1905, § 4119.

§ 110. **Next friend for infant plaintiff.**—No action shall be instituted by an infant until a next friend is appointed for him.

Whenever requested, the justice shall appoint some suitable person, who consents thereto in writing, named by such infant, to act as his next friend in such action, who shall be responsible for the costs therein.—R. L. 1905, § 3899.

§ 111. **Guardian for infant defendant.**—After the service and return of process against an infant defendant, the action shall not be further prosecuted until a guardian for such defendant is appointed. Upon the request of such defendant, the justice shall appoint some person, who consents thereto in writing, to be his guardian in defending the action; and if the defendant does not appear on the return day of the process, or if he neglects or refuses to nominate such guardian, the justice, at the request of the plaintiff, may appoint any discreet person as such guardian. The consent of such next friend or guardian shall be filed with the justice, and such guardian shall not be liable for costs.—R. L. 1905, § 3900.

§ 112. **Transfer of action.**—If, on the return of the process, or at any time before the trial commences, in any action or proceeding, civil or criminal, either party, his agent or attorney, makes and files an affidavit stating that the justice before whom the same is pending is a material witness for said party, without whose testimony he cannot safely proceed to trial, or that, from prejudice, bias, or other cause, he believes such justice will not decide impartially in the matter, or if the justice is near of kin to either party, such justice shall transfer said action, and all papers pertaining to the same, to some other justice of the same or an adjoining election district, and, if there be no other justice in the same or adjoining district, then to the nearest justice in the same county, who may thereupon proceed to hear and determine such action or proceeding in the same manner as the justice before whom it was commenced might have done; but no cause or proceeding shall be removed more than once, and no justice is required to transfer any civil action until all his costs in the same are paid.—R. L. 1905, § 3901.

§ 113. **To be a trial of the merits.**—The trial referred to is a trial of the merits of the cause and not the determining of some preliminary motion. The objections made to the process or pleadings and the motions and arguments thereon form no bar to an application for a change of venue. But it is too late when any step has been taken in an actual trial on the merits, such as an application for a jury, swearing a witness, or offering any evidence.

§ 114. **How to transfer the action.**—When the proper affidavit is presented, the justice must state in his docket that such affidavit was made stating the grounds, and thereupon enter an order that the action be transferred to a certain justice (naming him and his residence), in the same or an adjoining election district (or as provided by the statute), and state the time and place when the parties are to appear before such justice, and further

state the fact that all his costs are paid. Then he must in person, or by the officer, deliver to such justice personally a transcript from his docket of all the proceedings had before him, and also all the papers pertaining to the same, and add his certificate that the transcript is correct and that the papers attached thereto are all the papers had before him. Upon receiving these documents the justice to whom the case is transferred is to enter the case in his docket and "thereupon proceed to hear and determine the same in the same manner as the justice before whom the said action or proceeding was commenced, might have done."

§ 115. **Time for appearance.**—The parties are entitled to one hour after the time for appearance mentioned in the summons in which to appear, but are not bound to remain longer than that time unless both parties appear, and the justice, being present, is actually engaged in the trial of another action or proceeding. In such case he may postpone the time for appearance until the close of such trial or proceeding.—R. L. 1905, § 3902.

§ 116. **When rule may be relaxed.**—Ordinarily, if either party fails to appear within one hour after the time set for trial, the justice must proceed; but he may delay it for good cause. Thus the probability of the absent party appearing within a few minutes is good cause for relaxing the rule. So if the justice is otherwise engaged, as trying another suit, or on the town board, etc., he will delay it until he is through. Whenever the absent party does appear during the trial, he may introduce his testimony, if he has previously joined issue, or may question the opposite party's witness if he has not.

§ 117. **Objections, when to be made.**—All objections to the process or preliminary papers, or to the service or return of the process, or to any of the preliminary proceedings, must be made before pleading to the merits of the cause, and when so made and the justice rules adversely and exceptions are taken, the objecting party waives nothing by proceeding to trial thereunder.

§ 118. **Failure to appear—Offer of judgment.**—If either party fails to appear within one hour after the time specified for the return of the process, or to which the cause is adjourned, the justice shall dismiss the action, or proceed to hear the evidence of the party present, and render judgment thereon: Provided, that a defendant who has appeared may, before answering the complaint, offer to allow judgment to be taken against him for the sum or property in said offer specified, with costs. If the offer is accepted, the justice shall thereupon enter judgment accordingly. If refused, the same is to be deemed withdrawn, and cannot be given in evidence; and, if the plaintiff fails to obtain a more favorable judgment, he cannot recover costs made subsequent to such offer, but must pay the defendant's costs and disbursements made and expended subsequently thereto.—R. L. 1905, § 3903.

§ 119. **Plaintiff must prove his case.**—There is no such thing as judgment by default in justices' courts, and judgment cannot

be entered against a party upon a note or account left with the justice, unless some real plaintiff, or person in his stead, appears and pleads. No matter if the defendant does not appear (exceptions, see § 135), the plaintiff or his agent having knowledge of the facts must appear and prove his case, as though defendant was present and objecting, and the docket must show these facts.

TITLE VI.—PLEADINGS AND TRIAL.

§ 120. **Pleadings, when.**—The pleadings in justices' courts shall take place at the time mentioned in the summons for the appearance of the parties, or at such time thereafter, not exceeding one week, as the justice may appoint for the convenience of the parties and by their consent.—R. L. 1905, § 3904.

This statute is imperative, and the pleadings must take place on return day unless both parties consent to a different time, not exceeding one week thereafter, or jurisdiction will be lost.

§ 121. **Pleadings—Name and contents.**—The pleadings in justice's court are:

1. The complaint, stating the cause of action.
2. The answer, stating the grounds of defense.
3. When the answer sets up a counterclaim by way of set-off, the reply.—R. L. 1905, § 3905.

§ 122. **Oral or in writing.**—The pleadings may be oral or in writing. If oral, the substance of them shall be entered by the justice in his docket. If in writing, they shall be filed in his office, and a reference to them made in his docket.—R. L. 1905, § 3906.

§ 123. **Pleadings to be construed liberally.**—Where a party conducts his own suit, and is unacquainted with the rules and forms of pleading, he should plead orally; that is, make a fair and full statement of his claims to the justice, and have it entered by him in his docket, rather than to resort to a written pleading, which will be tested according to the stricter rules of pleading. If his claim be upon a note or account, it should be handed to the justice with a statement of the specific sum which he claims thereon from the other party. (See docket entry hereafter.)

§ 124. **Complaint.**—The complaint shall state in a plain and direct manner the facts constituting the cause of action.—R. L. 1905, § 3907.

§ 125. **Complaint what to contain.**—The "facts" here required to be set forth are physical facts—real, traversable facts. Mere inferences or conclusions of law are not such facts. Thus, an allegation of indebtedness without showing how the indebtedness arose, is a statement of a conclusion of law merely. The facts out of which the indebtedness arose should be alleged.

§ 126. **Formal parts of a complaint.**—The formal parts of a written complaint required by statute are in substance:

First—The title of the cause, specifying the court in which the action is brought, the state and county in which the action is

brought, and the names of the parties to the action, plaintiff and defendant.

Second—A plain and concise statement of the facts constituting a cause of action, without unnecessary repetition.

Third—A demand of the amount claimed.

Fourth—Verification by the party or attorney.

See § 36. It should be remembered at every step of justice court practice, that the law in the chapter on justice courts does not pretend to there provide all the details of practice, nor is the law which is there given all of the law applicable to those courts. Resort must be continually had to the law governing courts of record, in cases where the justice court law neither provides a method, nor prohibits the method used in courts of record.

§ 127. **Joinder of subjects in complaint.**—The different causes of action that may be united in one complaint are:

First—The same transaction or transactions connected with the same subject of action.

Second—Contracts, express or implied.

Third—Injuries with or without force to persons and property, or either.

Fourth—Claims to recover personal property, with or without damages for withholding thereof. But the causes of action so united must belong to one only of these classes and affect all the parties to the action, and be separately stated.—R. L. 1905, Chap. 77. In other words, torts or actions for wrongs to the person or property may be joined; actions arising on contracts may also be joined; but an action arising on contract cannot be joined with one arising upon tort.

§ 128. **Answer.**—The answer shall contain a denial of all the material facts stated in the complaint which the defendant believes to be untrue, and also a statement in a plain and direct manner of any other facts constituting a defense, or a counterclaim upon which an action might be brought by the defendant against the plaintiff in a justice court.—R. L. 1905, § 3908.

§ 129. **Formal parts of an answer.**—The formal parts of the answer required by statute are:

1. The title, as required in a complaint;
2. A denial of all the material facts in the complaint that are untrue;
3. A statement of any facts constituting a defense;
4. A counterclaim by way of set-off;
5. The verification.

The subject of counterclaims is more specifically defined in Title VIII, set off.

§ 130. **Defenses.**—Defenses may be: Statements showing that the plaintiff ought not to recover in the action as commenced, as that:

1. The court has no jurisdiction of the persons of the defendant or the subject of the action;

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2. That the plaintiff has not legal capacity to sue;
3. That there is another action pending between the same parties for the same cause;
4. That there is a defect of parties, plaintiff or defendant;
5. That several causes of action are improperly united;
6. That the complaint does not state facts sufficient to constitute a cause of action.

When any of the above defenses appear on the face of the complaint or any papers in the cause prior thereto, the objection may be taken in the form of a motion to dismiss the case; in cases mentioned in subdivisions 4 and 5 the defects may be required to be corrected by motion, or the case dismissed, but if they do not thus appear and their truth can only be made to appear by proof, then the objection must be taken by answer.

§ 131. **Reply.**—When the answer contains a counterclaim, the plaintiff may reply, denying any of the material allegations relating thereto.—R. L. 1905, § 3909.

§ 132. **Denial of knowledge or information.**—A statement in the answer or reply that the party has not sufficient knowledge or information in respect to a particular allegation in the previous pleading of the adverse party to form a belief, is equivalent to a denial.—R. L. 1905, § 3910.

§ 133. **Accounts and instruments—Inspection by adverse party.**—When a cause of action or counterclaim arises upon an account or instrument for the payment of money only, it shall be sufficient for the party to deliver the account or instrument to the court, and to state that there is due to him thereon, from the adverse party, a specified sum, which he claims to recover or set off. The court may at the time of pleading require that such writing or account be exhibited to the adverse party for inspection, with liberty to copy the same, and, if not so exhibited, may prohibit its afterward being given in evidence.—R. L. 1905, § 3911.

§ 134. **Pleadings verified.**—Every complaint, answer, or reply shall be verified by the oath of the party pleading, or, if he be not present, by the oath of his agent or attorney to the effect that he believes it to be true. The verification shall be oral or in writing, in conformity with the pleading verified.—R. L. 1905, § 3912.

§ 135. **Pleading taken as true, when.**—Every material allegation in the complaint, or relating to a counterclaim in the answer, not denied by the pleading of the adverse party, shall on the trial be taken to be true, except that, when a defendant who has not been served with a copy of the complaint with the summons, fails to appear and answer, the plaintiff cannot recover without proving his case.—R. L. 1905, § 3913.

No reply is necessary unless a counterclaim is set up in the answer, and all other defenses need no reply or denial, but must

be proven. The pleading of a set-off or counterclaim is not to be construed as any admission of plaintiff's demand.

§ 136. **Objections to pleadings.**—Either party may object to a pleading of his adversary, or to any part thereof, that it is not sufficiently explicit to enable him to understand it, or that it contains no cause of action or defense. If the court deems the objection well founded, it shall order the pleading to be amended, and, if the party refuses to amend, the defective pleading shall be disregarded.—R. L. 1905, § 3914.

§ 137. **Variance.**—A variance between the evidence and the allegations in the pleadings shall be disregarded, as immaterial, unless the court is satisfied that the adverse party is prejudiced thereby.—R. L. 1905, § 3915.

§ 138. **Amendment.**—The pleadings may be amended at any time before or during the trial, to supply any deficiency or omission in the allegations necessary to support the action or defense. If the amendment is made after the issue, and it appears to the satisfaction of the court that an adjournment is necessary to the adverse party in consequence thereof, an adjournment may be granted.—R. L. 1905, § 3916.

§ 139. **Adjournments.**—When the pleadings are closed, the justice, on the application of either party, shall adjourn the cause for not exceeding one week, or, upon application on oath, for any further time not exceeding thirty days.—R. L. 1905, § 3917.

§ 140. **Adjournments.**—A justice cannot adjourn a cause of his own motion, but it must be "on the application of either party." No cause need be shown for the first adjournment of one week. But every adjournment after the first can only be made by consent of parties; or else for good reason shown, if they do not consent. If a material witness is sick, or his attendance could not be procured for other reasons, the facts must be shown. This may be by affidavit or by oral examination on oath. It will not do to merely swear that due diligence has been used, but the facts must be shown tending to prove that due diligence was used to procure the attendance of a material witness, and let the justice be the judge of their sufficiency. If he is of opinion that an adjournment should be granted, he should appoint some reasonable time, not more than thirty days, within which the witness may be procured, and then be careful to enter in his docket the place as well as the time, including the hour of the day, to which the cause is adjourned.

§ 141. **Title to real estate—Case certified.**—If it appears on the trial of any action, from the evidence of either party, that the title to real estate is involved, which title is disputed by the other party, the justice shall immediately make an entry thereof in his docket, and all other proceedings in the case shall cease. He shall certify and return to the district court a transcript of all the entries made in his docket relating to the case, together with all process and other papers relating to the action, in the same man-

ner and within the same time as upon appeal; and thereupon the district court shall proceed in the cause the same as if the action had been originally commenced therein.—R. L. 1905, § 3918.

§ 142. **Title involved on the trial only.**—The justice has no power to certify the cause to the district court because the title is involved in the pleadings merely; and not until it is brought into question and disputed by the evidence offered on the trial. The title is “involved” only when the right of a party to sustain his action or defense depends upon the proof of title to real estate, which title is disputed by the other party. Whenever it really appears on the trial, however, that such title is involved, the justice must immediately make an entry thereof in his docket and stop the trial. He must then make a transcript of all the proceedings from his docket and attaching all the papers in the case thereto return the same to the district court. (See form hereafter.)

§ 143. **Adjournment subsequent to first.**—Every adjournment after the first shall be for such reasonable time as will enable the party to procure such absent testimony or witness as is necessary and material, which the party applying for the adjournment has not been able to procure by the use of proper diligence.—R. L. 1905, § 3919.

TITLE VII.—GENERAL RULES OF PLEADINGS.

§ 144. **Judgment, how pleaded—Proof.**—In pleading a judgment or other determination of a court or officer of general or special jurisdiction, it shall be sufficient to allege that the same was duly made or given, without stating the facts conferring jurisdiction. In cases of special jurisdiction, if such allegation be controverted, the party pleading the judgment or determination must prove the facts conferring jurisdiction.—R. L. 1905, § 4146.

§ 145. **Ordinances and local statutes.**—In pleading any ordinance of a city or village, or any special or local statute, or any right derived from either, it shall be sufficient to refer to the ordinance or statute by its title and the date of its approval, and thereupon the court shall take judicial notice thereof.—R. L. 1905, § 4147.

§ 146. **Incorporation, pleading and proof.**—In actions by or against a corporation, domestic or foreign, it shall be a sufficient averment of its incorporation to allege, in substance, that the party is a corporation duly organized and existing under the laws of the designated state, country, or place. And unless the adverse party shall specifically aver that the plaintiff or defendant is not a corporation, no proof thereof shall be required at the trial.—R. L. 1905, § 4148.

§ 147. **Copartnerships—Proof as to members.**—When two or more persons sue or defend as copartners, they may give in evidence any contract admissible under the pleadings. And unless the partnership is specifically denied by the adverse party, no

proof shall be required that they are the same persons who compose such copartnership when the contract was made or at any subsequent time.—R. L. 1905, § 4149.

§ 148. **Conditions precedent.**—In pleading the performance of conditions precedent in a contract, it shall not be necessary to allege the facts showing such performance, but it may be stated generally that the party duly performed all the conditions on his part; and if such allegation be denied, the party so pleading must prove the facts showing such performance.—R. L. 1905, § 4150.

§ 149. **Items of account, how pleaded.**—The items of an account need not be set forth in a pleading, but the party alleging it, if a written demand therefor be served by the adverse party, shall deliver a copy of the account within ten days after such demand, verified by the affidavit of himself, or of some person having knowledge thereof, as in the case of a pleading. If such copy be withheld, or if a further or more particular bill be not furnished when ordered by the court, evidence of the account may be excluded.—R. L. 1905, § 4151.

§ 150. **Answer in action for distrained animals.**—In actions for the recovery of animals distrained while doing damage, an answer alleging that defendant or the person under whose command he acted, was lawfully possessed of the land upon which the distress was made, and that the animal at the time was doing damage thereon, shall be sufficient, without alleging title to such land.—R. L. 1905, § 4153.

§ 151. **Joinder of causes of action.**—Two or more consistent causes of action, whether legal or equitable, may be united in one pleading, being separately stated therein: Provided, that they must affect all parties to the action, must not require separate places of trial, and must be included in one only of the following classes:

1. The same transaction, or transactions connected with the same subject of action;
2. Contracts, express or implied;
3. Injuries to either person or property, or both;
4. Injuries to reputation;
5. For the recovery of real property, with or without damages for withholding the same, and of the rents and profits thereof;
6. For the recovery of personal property, with or without damages for withholding the same; or
7. Claims against a trustee by virtue of a contract, or arising by operation of law.—R. L. 1905, § 4154.

§ 152. **Unknown defendant, how designated.**—When the plaintiff is ignorant of the name of a defendant, and shall so allege in his complaint, such defendant may be designated by any name; and when his true name is discovered, the process and all pleadings and proceedings in the action may be amended by substituting the same.—R. L. 1905, § 4155.

TITLE VIII.—SET-OFF.

§ 153. **When demands may be set off.**—Demands may be set off in the following cases:

1. A demand arising upon a judgment or contract, express or implied; but, if it is founded upon a bond or other contract having a penalty, only the sum equitably due by virtue of the condition shall be set off.

2. It must be due to defendant in his own right, either as the original creditor or payee, or as the assignee and owner of the demand.

3. It must be for real or personal property sold, or for money paid or services done, or, if not such a demand, the amount must be liquidated, or be capable of liquidation by calculation.

4. It must exist at the time the action is commenced, and then belong to the defendant.

5. It can only be allowed in actions founded upon demands which could themselves be the subject of set-off.

6. If there are several defendants, the demand set off must be due to all of them jointly.

7. It must be a demand existing against the plaintiff, unless the action is brought in the name of a plaintiff who has no real interest in the contract upon which the action is founded, in which case no set-off of a demand against the plaintiff shall be allowed, except as hereinafter specified.

8. If the action is founded upon a contract other than a negotiable promissory note or bill of exchange which has been assigned to the plaintiff, a demand against such plaintiff or any assignor of such contract existing at the time of the assignment thereof, and belonging to the defendant in good faith before notice of such assignment, may be set off to the amount of the plaintiff's demand, if the demand is such as might have been set off against such plaintiff's assignor while the contract belonged to him.

9. If the plaintiff is trustee for another, or if the action is in the name of a plaintiff who has no real interest in the contract upon which it is founded, so much of the demand existing against those whom the plaintiff represents, or for whose benefit the action is brought, may be set off, as will satisfy the plaintiff's demand, if the same might be set off in an action brought by those beneficially interested.—R. L. 1905, § 3920.

§ 154. **Set-offs against assignees.**—If the action is upon a negotiable promissory note or bill of exchange assigned to the plaintiff after it became due, a set-off to the amount of the plaintiff's demand may be made of a demand existing against any person who has assigned or transferred such note or bill after it became due, if the demand is such as might have been set off against such assignor while the note or bill belonged to him.—R. L. 1905, § 3921.

§ 155. **Counterclaim not allowed unless pleaded.**—"To entitle a defendant to set off a counterclaim, he shall specifically and clearly allege the same in his answer, stating the particular items of such counterclaim."

§ 156. **Judgment on set-off.**—If the amount of the set-off established is less than the plaintiff's demand, plaintiff shall have judgment for the residue only. If it equals or exceeds such demand, defendant shall have judgment for his costs and for any balance found due him: Provided, that no such judgment shall be given against the plaintiff for a balance due from any other person.—R. L. 1905, § 3922.

CHAPTER IV.—WITNESSES—DEPOSITIONS AND EVIDENCE.

TITLE I.—WITNESSES.

§ 157. **Definition.**—A witness is a person whose declaration under oath is received as evidence for any purpose, whether such declaration is made on oral examination, or by deposition or affidavit.—R. L. 1905, § 4654.

§ 158. **Subpoena, by whom issued.**—Every clerk of a court of record, and every justice of the peace, may issue subpoenas for witnesses in all civil cases pending before the court or justice, or before any magistrate, arbitrator, board, committee, or other person authorized to examine witnesses, and in all contests concerning lands before the register and receiver of any land office in this state.—R. L. 1905, § 4655.

§ 159. **What is a subpoena.**—A subpoena is a writ issued by the justice, running in the name of the state of Minnesota and requiring the person to whom it is addressed to appear before the justice (or some other magistrate or person authorized to examine witnesses) to give evidence in the cause or proceeding designated therein. (For statute form of subpoena, see R. L. 1905, § 3998 §438.) When it is desired that the witness should bring with him any books of account, papers, or written instrument, a “duces tecum” clause should be inserted. (See form of duces tecum hereafter.) One subpoena may contain as many names as the party may wish inserted, and the justice may insert one or more names and the party may thereafter insert such other names as he may wish. Witnesses should be allowed a reasonable time for travel, and cannot be required to travel on Sunday.

§ 160. **How served.**—Such subpoena may be served by any person, by exhibiting and reading it to the witness, or by giving him a copy thereof, or by leaving such copy with a person of suitable age and discretion at the place of his abode.—R. L. 1905, § 4656.

§ 161. **Failure to attend—Damages.**—If any person duly subpoenaed to attend as a witness fails to do so, without reasonable excuse, he shall be liable to the aggrieved party, in a civil action, for all damages occasioned by such failure.—R. L. 1905, § 4657.

§ 162. **Contempt.**—Such failure to attend as a witness is a contempt of court, and, if the subpoena issues out of a court of record, may be punished by a fine not exceeding \$250, or by imprisonment in jail not exceeding six months, or both.—R. L. 1905, § 4658.

§ 163. **Attachment.**—The court in such case may issue an attachment to bring such witness before it to answer for the con-

tempt, and also to testify as a witness in the action or proceeding in which he was subpoenaed.—R. L. 1905, § 4659.

§ 164. **Competency of witnesses.**—Every person of sufficient understanding, including a party, may testify in any action or proceeding, civil or criminal, in court or before any person who has authority to receive evidence, except as follows:

1. A husband cannot be examined for or against his wife without her consent, nor a wife for or against her husband without his consent, nor can either, during the marriage or afterwards, without the consent of the other, be examined as to any communication made by one to the other during the marriage. But this exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to an action or proceeding for abandonment and neglect of the wife or children by the husband.

2. An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him or his advice given thereon in the course of professional duty; nor can any employe of such attorney be examined as to such communication or advice, without the client's consent.

3. A clergyman or other minister of any religion shall not, without the consent of the party making the confession, be allowed to disclose a confession made to him in his professional character, in the course of discipline enjoined by the rules or practice of the religious body to which he belongs.

4. A licensed physician or surgeon shall not, without the consent of his patient, be allowed to disclose any information which he acquired in attending the patient in a professional capacity, and which was necessary to enable him to act in that capacity.

5. A public officer shall not be allowed to disclose communications made to him in official confidence when the public interest would suffer by the disclosure.

6. Persons of unsound mind; persons intoxicated at the time of their production for examination, and children under 10 years of age, who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly, are not competent witnesses.—R. L. 1905, § 4660.

§ 165. **Accused—May be witness.**—The defendant in the trial of an indictment, complaint, or other criminal proceeding shall, at his own request and not otherwise, be allowed to testify; but his failure to testify shall not create any presumption against him, nor shall it be alluded to by the prosecuting attorney or by the court.—R. L. 1905, § 4661.

§ 166. **Examination of witness.**—The order of examining a witness after he is sworn is:

First—The examination-in-chief, or direct examination by the party producing him.

Second—The cross-examination by the opposite party.

Third—The re-direct examination by the first party.

Leading questions, unless introductory merely, cannot be put to the witness upon the direct examination—such as suggest the answer on material points. Leading questions, however, are sometimes allowed to an unwilling witness. Upon cross-examination greater latitude is allowed, and not only leading questions may be put, but everything about which he has testified on his direct examination may be particularly inquired into. The re-examination ought, in strictness, to be confined to an explanation of matters elicited upon cross-examination, but the justice may, in his discretion, admit testimony on new matters.

§ 167. **Impeachment of witness.**—A witness's testimony may be impeached in three ways:

First—By disproving the facts sworn to by him.

Second—By proving that he has made statements out of court contrary to that sworn to by him in court—the foundation having been previously laid on the cross-examination by calling his attention to the time, place and person to whom they were made, and asking him if he made such and such statements. Contradictory statements of a party to the suit, however, can be shown without this preliminary step.

Third—By impeaching his general character for truth and veracity. The mode of conducting this step in impeachment is, to first ask the impeaching witness if he knows the witness's general reputation for truth and veracity among his neighbors and acquaintances. If he answers yes, then, "is that reputation good or bad?" If he answers "bad," then the opposite party may cross-examine him in detail, and inquire particularly into what he knows of witness's reputation. A limited number of impeaching witnesses may be called, and an equal number of witnesses to support the good character of the witness attacked.

§ 168. **Examination by adverse party.**—A party to the record of any civil action or proceeding, or a person for whose immediate benefit such action or proceeding is prosecuted or defended, or the directors, officers, superintendent, or managing agents of any corporation which is a party to the record, may be examined by the adverse party as if under cross-examination, subject to the rules applicable to the examination of other witnesses. The party calling such adverse witness shall not be bound by his testimony, and the testimony given by such witness may be rebutted by the party calling him for such examination, by other evidence. Such witness, when so called, may be examined by his counsel, but only as to the matters testified to on such examination.—R. L. 1905, § 4662.

§ 169. **Oaths—By whom and how administered.**—Any officer authorized by this chapter to take and certify acknowledgments, may administer an oath, and, if the same be in writing, may certify the same under his official signature, and the seal of his office, if there be one, in the following form: "Subscribed and sworn

to before me, this.....day of....., 19..... The mode of administering an oath commonly practiced in the place where it is taken shall be followed, including in this state, the ceremony of uplifting the hand.—R. L. 1905, § 2681.

§ 170. **Affirmation in lieu of oath.**—If any person of whom an oath is required shall declare that he has religious scruples against taking the same, the word “swear” and the words “so help you God” may be omitted from the foregoing forms, and the word “affirm” and the words “and this you do under the penalties of perjury” shall be substituted therefor, respectively, and such person shall be considered, for all purposes, as having been duly sworn.—R. L. 1905, § 2680.

§ 171. **Conversation with deceased or insane person.**—It shall not be competent for any party to an action, or any person interested in the event thereof, to give evidence therein of or concerning any conversation with, or admission of, a deceased or insane party or person relative to any matter at issue between the parties, unless the testimony of such deceased or insane person concerning such conversation or admission, given before his death or insanity, has been preserved, and can be produced in evidence by the opposite party, and then only in respect to the conversation or admission to which such testimony relates.—R. L. 1905, § 4663.

§ 172. **Peculiar modes of swearing.**—Whenever the court before which any person is offered as a witness is satisfied that such person has a peculiar mode of swearing which is more solemn and obligatory, in the opinion of such person, than the usual mode, the court in its discretion may adopt such mode; and every person believing in any other than the Christian religion shall be sworn according to the peculiar ceremonies of his religion, if any there are.—R. L. 1905, § 4664.

§ 173. **Capacity of witness, etc.**—When an infant, or a person apparently of weak intellect, is produced as a witness, the court may examine him to ascertain his capacity, and whether he understands the nature and obligations of an oath, and the court may inquire of any person what peculiar ceremonies he deems most obligatory in taking an oath.—R. L. 1905, § 4665.

TITLE II.—DEPOSITIONS.

§ 174. **On notice to adverse party.**—The deposition of a witness whose testimony is wanted in any civil cause pending in this state before a court, magistrate, or other person authorized to examine witnesses, or in a controversy submitted to arbitrators, may be taken, upon notice to the adverse party of the time and place of such taking, by or before any officer authorized to administer an oath in the state or territory in which the same may be taken, when the witness:

1. Is within the state and lives more than 30 miles from the place of trial or hearing; or is about to go out of the state, not

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intending to return in time for the trial or hearing; or is so sick, infirm, or aged as to make it probable that he will not be able to attend at the trial or hearing;

2. Is without this state, and within any state or territory of the United States.—R. L. 1905, § 4666.

The application should be in writing duly verified by the party, his agent or attorney making the same, and stating the grounds upon which it is made, and the name and residence of the justice before whom it is desired to be taken. On the receipt of the application the justice should immediately issue the notice required by statute.

§ 175. **Same—Service—Order—Defendant in default.**—Such notice shall be in writing, shall state the reason for taking the deposition, and shall be served in the same manner as other notices in civil actions, and so as to allow the adverse party sufficient time, at the rate of one day for every 100 miles of distance by the usual route of travel between the place of service and the place of taking the deposition, and one day for preparation, exclusive of Sundays and the day of service: Provided, that a justice of the peace before whom, or a judge of the court before which, or a court commissioner of the county in which, the action is pending, on motion, may, by order, designate the time and place of taking the testimony and the time within which a copy of the order shall be served on the adverse party; but no notice or order need be served upon a defendant who is in default for want of an answer or other defense.—R. L. 1905, § 4667.

§ 176. **Proof of service of notice.**—The proof of service should be indorsed upon the original notice, stating where, when, and by whom the same had been served on the party. The original order and notice, with the proof of service indorsed thereon, must be filed and remain with the justice issuing the same. A certified copy thereof should be sent to the justice designated to take the deposition, who should attach it to the deposition when taken and return it therewith to the court or arbitrators or referees before whom the cause is pending.

§ 177. **Same—Examination of witness.**—The examination shall commence at the time and place specified in the notice or order, or within one hour thereafter, and, if so stated in the notice, may be adjourned from day to day until closed. Either party may appear in person, or by his agent or attorney, and take part in the examination.—R. L. 1905, § 4668.

§ 178. **Under commission.**—The deposition of a witness without the state may be taken under a commission issued by a court of record to any competent person in any state or country in the following cases:

1. When an issue of fact has been joined in an action pending in such court, or when a controversy has been submitted to arbitrators and the award is required to be filed in such court, on

the application of either party made upon eight days' notice, if it appears that the testimony of such witness is material;

2. When the time for answering the complaint in an action pending in such court has expired, and the defendant has not answered or demurred, on application of the plaintiff without notice to the other party, if it appears that the testimony of such witness is necessary to establish the cause of action alleged.—R. L. 1905, § 4669.

§ 179. **Same—Interrogatories.**—When such application is by the plaintiff, and there has been no appearance by the defendant, the deposition may be taken upon interrogatories filed by the plaintiff and annexed to the commission. In all other cases such depositions shall be taken upon written interrogatories, served upon the adverse party or his attorney, and cross-interrogatories to be served and filed by him if he desires.—R. L. 1905, § 4670.

§ 180. **By stipulation.**—The parties to any action or proceeding, by stipulation in writing, may agree upon any other mode of taking depositions, either within or without the state, and, when taken pursuant to such stipulation, they may be used upon a trial with like force and effect in all respects as if taken upon notice or under commission.—R. L. 1905, § 4671.

§ 181. **Deposition, how written.**—In all cases the deposition shall be written by the officer, or by some disinterested person in his presence and under his direction. The officer must carefully read over to the witness his testimony, and he may thereupon add thereto or qualify the same as he may desire.—R. L. 1905, § 4672.

§ 182. **Signing and certifying.**—When the deposition is completed, the witness shall sign his name or make his mark at the end thereof, as well as upon each piece of paper upon which any portion of his testimony is written. Thereupon the officer shall annex to such deposition the notice, order, or the commission, and a certificate, under his hand and his official seal, if he have one, which certificate shall be prima facie evidence of the matters therein stated, and shall be substantially in the following form:

“State of..... { ss.:
County of

“Be it known that I took the annexed depositions pursuant to the annexed notice (or order or commission); that I was then and there (state title of officer); that I exercised the power of that office in taking such deposition; that by virtue thereof I was then and there authorized to administer an oath; that each witness, before testifying, was duly sworn to testify to the whole truth and nothing but the truth relative to the cause specified in said notice (or order or commission); that the testimony of each witness was carefully read over to him by me before he signed the same (if the examination was oral); that the examination was conducted on behalf of the plaintiff by.....,

and on behalf of the defendant by.....; and (if the deposition was taken within the state) that the reason for taking said deposition was (here state the reason).

“Witness my hand (and seal) this.....day of
A. D.”—R. L. 1905, § 4673.

§ 183. **Return of deposition.**—The officers shall enclose and seal the deposition, and shall deliver or mail it to the court before which the cause is pending or from which the commission issued, or, if the deposition was taken upon notice in a controversy submitted to arbitrators, to one of them; and it shall remain sealed until opened by the court or the clerk thereof, or by the arbitrators, and shall then be subject to the inspection of either party.—R. L. 1905, § 4674.

§ 184. **Directions to justices.**—When it is as convenient for the witness and parties to appear before the justice before whom the action is pending, the deposition should be taken by such justice, who should seal it up and file with the other papers until the day of trial. In such case he should note in his docket the proceedings had before him and the date and filing of the deposition. Any justice granting a deposition, whether to be used before him or another, should enter the application and notice in his docket, specifying the justice authorized to take the deposition and the time and place appointed for its taking.

§ 185. **Person giving deposition to be sworn.**—Every person whose testimony is taken by deposition, before being examined or giving his evidence, shall be sworn to testify the whole truth, and nothing but the truth, relative to the cause in or for which the deposition is taken.—R. L. 1905, § 4675.

§ 186. **Witness compelled to give deposition.**—Any witness may be subpoenaed and compelled to give his deposition, at any place within 20 miles of his abode, in like manner and under the same penalties as in the case of a witness in court.—R. L. 1905, § 4676.

§ 187. **Deposition, how used—Objections.**—Every deposition may be read in evidence at the trial of the action or proceeding; but, when offered in evidence, objection may be interposed to the competency of the witness, or to any question put to him, or to the whole or any part of his testimony, in like manner, on the same grounds, and with like effect as if the witness were present and testifying in open court, except that no objection to the form of any question or interrogatory can be made unless such objection was made before, and noted by, the officer taking such deposition, if the deposition was taken upon notice, or unless the objection was made when the interrogatory was exhibited or filed, if the deposition was taken under commission.—R. L. 1905, § 4677.

§ 188. **Informalities and defects—Motion to suppress.**—No informality, error, or defect in any proceeding shall be sufficient ground for excluding a deposition, unless the party making the

objection thereto shall make it appear to the satisfaction of the court that the officer taking the same was not then and there authorized to administer an oath, or that such party was by such informality, error, or defect precluded from appearing and cross-examining the witness: and every objection to the sufficiency of the notice, order or commission, or to the manner of taking, certifying, or returning such deposition shall be deemed to have been waived, unless such objection is taken by motion to suppress the deposition, which motion shall be made within ten days after service of written notice of the return thereof.—R. L. 1905, § 4678.

§ 189. **Failure of party giving notice to appear—Expenses.**—Whenever any party serving notice of the taking of the testimony of any person fails to appear and proceed with the taking of such testimony at the time and place stated in the notice or order, and the adverse party shall appear in pursuance thereof, by himself or attorney, the court in which the cause is pending shall allow said adverse party such sum for expenses and attorney's fees incurred in so attending as it shall deem proper, which shall be collected in the same manner as other disbursements in the cause.—R. L. 1905, § 4679.

§ 190. **Deposition, not used when.**—No deposition shall be used if it appears that the reason for taking it no longer exists; but, if the party producing the deposition in such case shows sufficient cause then existing for using the same, it may be admitted.—R. L. 1905, § 4680.

§ 191. **Deposition used in second action.**—When an action is discontinued or dismissed, and another action for the same cause is afterward commenced between the same parties or their respective representatives, all depositions lawfully taken for the first action may be used in the second in the same manner and subject to the same conditions and objections as if originally taken therefor: Provided, that the deposition has been duly filed in the court where the first action was pending, and has ever since remained in its custody.—R. L. 1905, § 4681.

§ 192. **Deposition on appeal.**—When an action is appealed from one court to another, all depositions lawfully taken to be used in the court below may be used in the appellate court in the same manner and subject to the same objections as were made to such depositions in writing in the court below.—R. L. 1905, § 4682.

§ 193. **Depositions for use in other states.** Any witness may be compelled, in the manner and under the penalties prescribed in this chapter, to give his deposition in any case pending in a court of any other state or county, which deposition may be taken before any justice of the peace or notary public, or before any commissioner appointed under the authority of the state or country in which the action is pending; and the clerk of any dis-

trict court of this state may issue subpoenas to such witnesses to appear before the person taking such deposition.—R. L., 1905, § 4683.

§ 194. **Affidavits, etc., taken out of state.**—All oaths and affidavits taken out of the state before any officer authorized to administer oaths, and certified by the clerk of a court of record, may be used and read upon the argument of any motion, with the same effect as if taken within this state: Provided, that if such affidavit be taken before a notary public or commissioner for this state, the clerk's certificate shall not be required.—R. L. 1905, § 4684.

TITLE III.—EVIDENCE.

§ 195. **Rules of evidence.**—The subject of evidence is too extensive to admit of even a fair synopsis in this Manual. During the progress of every trial, however, a few cardinal points of evidence ought to be constantly borne in mind, such as: the evidence must be confined to the issue; the side that has the affirmative of the issue has also the burden of proof; it is sufficient to prove the substance of the issue; admissions of a party are evidence against him, but not for him; hearsay is not evidence; the best evidence must always be produced, as, for instance, documentary or written evidence (if it exists) in preference to parol testimony.

After the testimony is closed, the preponderance of evidence is to be determined therefrom. One credible, uncontradicted witness is sufficient to prove a fact. But where there is conflicting evidence between the two sides, such a construction ought to be put upon it as to make it agree, if possible, but if it cannot be reconciled, then the justice or jury must decide which is to be believed. In determining this, there must be taken into consideration all the circumstances of the case—the probability of the facts sworn to, the character of the witnesses, their interest, bias, and relationship, and their whole manner of giving their testimony, and the findings should be made for the party in whose favor the weight of evidence preponderates. If, after all, the mind is balanced on this subject, the findings should be against the party that has the affirmative side, for having failed to make out his case.

§ 196. **Acknowledgments—By whom taken in this state.**—The following named officers shall have power to take and certify acknowledgments within the state:

1. Every member of the legislature, so long as he shall remain such and continue to reside in the district from which he was elected; but he shall receive no fee or compensation for so doing. The form of his official signature in such cases shall be, "A. B., Representative (or Senator) District Minnesota. My term expires January 1, 19...."

2. The judges and the clerks and deputy clerks of all courts of record, residing within the state, including those of the Circuit

and District Courts of the United States, and resident United States commissioners.

3. Notaries public, justices of the peace, and the clerks or recorders of towns, villages, boroughs, and cities.

4. Court commissioners, registers of deeds, and county auditors, and their several deputies, and county commissioners, all within their respective counties.—R. L. 1905, § 2687.

A—Records of Court.

§ 197. **Records of foreign courts.**—The records and judicial proceedings of a court of any other state, or of the United States, or of any foreign country shall be admissible in evidence in all cases when authenticated by the attestation of the clerk or other officer having charge of the records of such court, under its seal.—R. L. 1905, § 4697.

§ 198. **Laws of foreign countries.**—The existence and the tenor or effect of all foreign laws may be proved as facts by parol evidence; but, if it appears that the law in question is contained in a written statute or code, the court may, in its discretion, reject any evidence of such law which is not accompanied by a copy thereof.—R. L. 1905, § 4698.

§ 199. **Printed copies of statutes, etc.**—Printed copies of all statutes, acts, and resolutions of this state published under its authority, whether of a public or private nature, the journals of the Senate and House of Representatives kept by the respective clerks thereof as provided by law, and deposited in the office of the Secretary of State, and the printed journals of said Houses, respectively, published by authority of law, shall be admitted as sufficient evidence thereof in all cases whatsoever.—R. L. 1905, § 4699.

§ 200. **Municipal ordinances, etc.**—Copies of the ordinances, by-laws, resolutions, and regulations of any city, village or borough, certified by the mayor, or president of the council, and the clerk thereof, under its seal, and copies of the same printed in any newspaper, book, pamphlet, or other form, and which purport to be published by authority of the council of such city or village, shall be prima facie evidence thereof, and, after three years from the compilation and publication of any such book or pamphlet, shall be conclusive proof of the regularity of their adoption and publication.—R. L. 1905, § 4700.

§ 201. **Statutes of other states.**—Printed copies of the statute laws of any other state, or of a foreign country, which purport to be published under the authority of their respective governments, or if commonly admitted as evidence in their courts, are admissible as prima facie evidence of such laws in all cases whatsoever in this state.—R. L. 1905, § 4701.

§ 202. **Common law of other states.**—The unwritten or common law of any other state may be proved as a fact by parol evi-

dence, and the books of reports of cases adjudged in the courts of such states may also be admitted as evidence of such law.—R. L. 1905, § 4702.

§ 203. **Records of surveys, evidence when.**—Records of surveys made by the engineering department of any municipality, including field notes, profiles, plats, plans, and other files and records of such department, shall be prima facie evidence in all courts of the correctness of the facts shown and statements made therein.—R. L. 1905, § 4703.

§ 204. **Copies of decisions, etc., certified by librarian.**—Copies of judicial decisions contained in any of the law or equity reports in the state library, and of any other papers or documents contained in such library, certified by the State Librarian, shall be received in evidence in like manner and with like effect as the originals. For making and certifying any such copy, the Librarian shall be entitled to charge 15 cents a folio.—R. L. 1905, § 4704.

B—Documentary Evidence.

§ 205. **Publication of notice of application to court—Affidavit.**—When notice of any application to a court or judicial officer is required by law to be published in a newspaper, an affidavit by the printer of such paper, or his foreman or clerk, annexed to a printed copy of such notice taken from the paper in which it was published, specifying the times when, and the paper in which, such notice was published, may be filed with the proper officer of the court, or with the judicial officer before whom such proceeding is pending, at any time within six months after the last day of the publication of such notice, unless sooner specially required. And a like affidavit of such printer, foreman, or clerk, may within the same time be filed for record with the register of deeds of the county where any real estate affected by such notice is situated.—R. L. 1905, § 4705.

§ 206. **Printer's affidavit, when evidence.**—The original affidavit of the printer of any newspaper, or of his foreman or clerk, of the publication of any summons, notice, order, resolution, or other advertisement which by law is required or authorized to be published in such newspaper, and copies of the same, or of the record thereof, certified by the officer in whose custody the same may be, shall be prima facie evidence of such publication and of the facts stated therein. And if any such publication relates to the sale of real estate, such affidavit may be filed for record with the register of deeds of the county in which the real estate lies.—R. L. 1905, § 4706.

§ 207. **Affidavit of officer of Historical Society.**—When a legal notice appears in any newspaper, purporting to have been published in this state prior to the year 1900 and filed with the state historical society, the affidavit of any officer of such society, setting forth a copy of such notice, and stating that it is a true

copy of the same as contained in said newspaper, and naming the place where it purports to have been published and the dates of the different issues thereof so on file containing such notice, may be recorded in the office of the register of deeds of any county in which there is real estate which may be affected by such notice; and such affidavit or record shall be prima facie evidence that the paper containing said notice was regularly published at the time and place so stated.—R. L. 1905, § 4707, as amended G. L., 1909, Chap. 19.

§ 208. **Official records—Certified copies.**—The original record made by any public officer in the performance of his official duty shall be prima facie evidence of the facts required or permitted by law to be by him recorded. A copy of such record, or of any document which is made evidence by law and is preserved in the office or place where the same was required or is permitted to be filed or kept, or a copy of any authorized record of such document so preserved, when certified by the person entitled to the official custody thereof to have been compared by him with the original and to be a correct transcript therefrom, shall be received in evidence in all cases, with the same force and effect given to such original document or record; but if such officer have, by law, an official seal, his certificate shall be authenticated thereby. Provided, that no part of this section relating to the form of certification shall apply to documents or records kept in the departments or offices of the United States Government.—R. L. 1905, § 4708.

§ 209. **When seal not necessary.**—The preceding section shall not be constructed to require the affixing of the seal of the court to any certified copy of a rule or order made by such court, or to any paper filed therein, when such copy is used in the same court or before any officer thereof.—R. L. 1905, § 4709.

§ 210. **Instruments acknowledged—Evidence.**—Every written instrument, except promissory notes, bills of exchange, and the last wills of deceased persons, may be acknowledged in the manner now provided by law for taking the acknowledgment of deeds, and the certificate of the proper officer indorsed thereon shall entitle such instrument to be read in evidence in all courts and elsewhere without other proof of execution.—R. L. 1905, § 4710.

§ 211. **Deposit of papers with register or clerk.**—Every register of deeds, and every clerk of a court of record, upon being paid the legal fees therefor, shall receive and deposit in his office any instruments or papers which shall be offered him for that purpose, and, if required, shall give to the person depositing the same a receipt therefor.—R. L. 1905, § 4711.

§ 212. **To be indorsed and filed.**—Such instruments or papers shall be filed by the officer receiving the same, and so indorsed as to indicate their general nature, the names of the parties thereto, and time when received, and shall be deposited and kept

by him and his successors in office in the same manner as his official papers, but in a place separate therefrom.—R. L. 1905, § 4712.

§ 213. **How withdrawn.**—Papers and instruments so deposited shall not be withdrawn from such office except upon the written order of the person depositing the same, or his executors or administrators, or on the order of some court for the purpose of being read in such court, and then to be returned to such office. When so deposited, they shall be open to the examination of any person desiring the same upon payment of the fees, if any, allowed by law.—R. L. 1905, § 4713.

§ 214. **Certificate of officer that paper cannot be found.**—The certificate of any officer to whom the legal custody of any instrument belongs, stating that he has made diligent search for such instrument and that it cannot be found, shall be prima facie evidence of the fact so certified to in all cases, matters and proceedings.—R. L. 1905, § 4714.

§ 215. **Copies of government records, etc.**—Copies of any records or documents belonging to and being in any of the governmental departments of the United States, authenticated as such, so as to entitle the same to be received as evidence in the courts of the United States shall be received as evidence in the courts of this state.—R. L. 1905, § 4715.

C—Lost Instruments.

§ 216. **Proof of loss.**—Whenever a party to an action is permitted to prove by his own oath the loss of any instrument, in order to admit other proof of the contents thereof, the adverse party, before the admission of such proof, may also be examined on oath to disprove such loss and to account for such instrument.—R. L. 1905, § 4716.

§ 217. **Evidence of contents of lost bill, etc.**—Whenever it appears on the trial of an action founded upon a negotiable promissory note, bill of exchange, bond, or other instrument for the payment of money, or in which any such instrument might be allowed as a set-off or counterclaim, that such instrument was lost while it belonged to the party claiming the amount due thereon in such action, parol or other evidence of the contents thereof may be given on such trial, and, notwithstanding the instrument was negotiable, such party shall be entitled to recover the amount due thereon as if it had been produced, upon compliance with the provisions of the next section.—R. L. 1905, § 4717.

§ 218. **Bond to be given, when.**—To entitle a party to a recovery in such case, he shall execute a bond to the adverse party before judgment is entered, in a penalty at least double the amount of such instrument, approved by the court, or, in case no trial is had, by the clerk, conditioned to indemnify the adverse party, his heirs and personal representatives, against all claims

by any other person on account of such instrument, and against all costs and expenses by reason of such claims: Provided, that if the statute of limitations has run against such instrument while the action is pending, and before a recovery is had thereon, the court, in its discretion, may reduce the amount of the penalty, or permit judgment to be entered without bond.—R. L. 1905, § 4718.

D—Account Books, Records, Justice's Dockets.

§ 219. **Reception of account books in evidence.**—Whenever a party in any cause or proceeding shall produce at the trial his account books, and prove that the same are his account books kept for that purpose, that they contain the original entries for moneys paid, goods, or other articles delivered, services performed or material furnished; that such entries were made at the time of the transactions therein entered; that they are in his handwriting or that of a person authorized to make charges in said books, and are just and true to the best knowledge and belief of the person making the proof, such books, subject to all just exceptions as to their credibility, shall be received as prima facie evidence of the charges therein contained. If any book has marks which show that the items have been transferred to a ledger, it shall not be received unless the ledger is produced.

Provided, that the entry of charges or credits, involving money, goods, chattels or services furnished or received, when the furnishing or receipt thereof constitutes a part of the usual course of business of the person on whose behalf such entry is made, shall be received as evidence tending to prove the fact of the furnishing or receiving of such moneys, goods, chattels or services, whether the same be contained in an account book, or in a so-called loose-leaf, card or similar system of keeping accounts, and whether the same be made by handwriting, type-writing or other similar means, if it shall appear that such entry was made by a duly authorized person contemporaneously with the transaction therein referred to, as a part of the general system of accounts of the person on whose behalf the entry is made, and that the same is made in the usual and ordinary course of said business.—R. L. 1905, § 4719, as amended G. L. 1909, Chap. 251.

§ 220. **Entries by a person deceased, admissible when.**—Entries made in any book by a person authorized to make the same, he being dead, may be received as evidence in a case proper for the admission of such book as evidence, on proof that the same are in his handwriting and in a book kept for such entries, without further verification.—R. L. 1905, § 4720.

§ 221. **Books proved by deposition.**—When such books or entries therein are proved by deposition, the production of the books before the officer taking the deposition shall be equivalent to producing the same at the trial, and copies of the entries there-

in contained desired to be introduced in evidence may be attached to the deposition as exhibits, and shall be evidence of like force and effect as the books.—R. L. 1905, § 4721.

§ 222. **Letterpress copies.**—The production of a letterpress copy of any letter, before the officer taking the deposition, shall be equivalent to producing the same at the trial, and, when so produced, a copy thereof may be attached to the deposition as an exhibit and shall be evidence of like force and effect as the letterpress copy itself; but such copies shall not be used if the original letters are produced at the trial.—R. L. 1905, § 4722.

§ 223. **Minutes of conviction and judgment.**—A copy of the minutes of any conviction and judgment, with a copy of the indictment on which the conviction was had, duly certified by the clerk in whose custody they are, shall be evidence of such conviction and judgment, without the production of the judgment roll.—R. L. 1905, § 4723.

§ 224. **Transcript from justice's docket.**—A transcript from the docket of any justice of the peace of a judgment had before him, of the proceedings in the case previous to such judgment, of the execution issued thereon, and of the return of such execution, when certified by such justice, or his successor in office, shall be evidence to prove the facts contained in such transcript in any court of the county where the judgment was rendered.—R. L. 1905, § 4724.

§ 225. **Same, for use in different county.**—To entitle such transcript to be read in evidence in another county, there shall be attached thereto a certificate of the clerk of the district court of the county in which the judgment was rendered, specifying that the person subscribing such transcript was at the date of such judgment a justice of the peace of such county.—R. L. 1905, § 4725.

§ 226. **Proceedings before justice not written.**—The proceedings in any case had before a justice, not reduced to writing by him, nor being the contents of any paper produced before him, unless such paper be lost or destroyed, may be proved by the oath of such justice, or, in case of his death or absence, by producing the original minutes entered in a book kept by him, with proof of his handwriting; or they may be proved by producing copies of such minutes, sworn by a competent witness to have been compared by him with the original entries, with proof that such entries were in the handwriting of the justice.—R. L. 1905, § 4726.

§ 227. **Certificate of conviction.**—Every certificate of conviction made and filed by a justice under the provisions of law, or a duly certified copy thereof, shall be evidence of the facts therein contained.—R. L. 1905, § 4727.

§ 228. **Exemplification of judgment in another state.**—An exemplification of a judgment rendered by any justice of the peace in any state, certified by such justice or his successor in

office to be a full and correct copy from his docket of all the proceedings in that case, with a certificate of magistracy thereon, signed by a clerk of a court of record in the county where such judgment was rendered, and authenticated by the seal of such court, shall be evidence in any court of this state of the facts contained in such exemplification.—R. L. 1905, § 4728.

§ 229. **Inspection of documents.**—The court before which an action is pending may order either party to give to the other, within a specified time, an inspection and copy, or permission to take a copy, of any book, document, or paper in his possession or under his control, containing evidence relating to the merits of the case. If compliance is refused, the court may exclude the book, document, or paper, or, if wanted as evidence by the party applying, may direct the jury to presume it to be as alleged by him. The court may also punish the party refusing as for a contempt. This section shall not be construed to prevent a party from compelling another to produce books, papers, and documents when he is examined as a witness.—R. L. 1905, § 4729.

§ 230. **Bills and Notes—Indorsement—Signature to instruments presumed.**—In actions brought on promissory notes or bills of exchange by the indorsee, the possession of the note or bill shall be prima facie evidence that the same was indorsed by the person by whom it purports to be indorsed. Every written instrument purporting to have been signed or executed by any person shall be proof that it was so signed or executed until such person shall deny the signature or execution of the same by his oath or affidavit; but this shall not extend to instruments purporting to have been signed or executed by a person who has died before the requirement of such proof.—R. L. 1905, § 4730.

§ 231. **Indorsement of money received.**—An indorsement of money received, on any promissory note, which appears to have been made when it was against the interest of the holder to make it, is prima facie evidence of the facts therein stated.—R. L. 1905, § 4731.

§ 232. **Land office receipts, etc., evidence of title.**—The receipt or certificate, signed by the register or receiver of any United States land office, of the entry or purchase of any tract of land, or the location of any tract by a land warrant, shall be prima facie evidence of title to the lands described in such receipt or certificate in the person named therein. Such receipt or certificate may be filed for record with the register of deeds of the county where the land is located, with like force and effect as a conveyance of real estate.—R. L. 1905, § 4732.

§ 233. **Land office certificate evidence of title, when.**—The certificate of the register or receiver of any United States land office, showing when, how, and by whom any lands within this state were entered under the homestead, pre-emption, or timber-culture laws of the United States, shall be prima facie evidence

that the person named therein was at the date of such entry the owner in fee of such lands.—R. L. 1905, § 4733.

§ 234. **Certificate of department officer.**—The certificate of any officer of any department of the United States government to any fact appearing of record in his department, authenticated by his official seal, if he has one, shall be prima facie evidence of such fact.—R. L. 1905, § 4734.

§ 235. **Patents and duplicates.**—Patents of land issued by the United States, or duplicates thereof from the records in the General Land Office, certified by the commissioner of such land office, may be filed for record with the register of deeds of the county in which such land lies. Such records, or certified copies thereof, shall be evidence in like manner and to the same extent as the records or copies of other conveyances.—R. L. 1905, § 4735.

§ 236. **Plats of surveys from land office—Certificate of county surveyor.**—Any plat of a survey of public lands, certified by the register of the United States land office of the district in which such land is situated to be a true copy of the certified copy of the original on file in his office, and any certificate by such register of the surveys or entry and location of, or other facts in relation to such lands, taken from the books of such land office, or from the certificate indorsed on the copy of the original plat on file therein, are prima facie evidence of the facts therein stated. The certificate of any county surveyor or deputy shall be evidence of the facts therein stated, but may be explained or rebutted by other testimony.—R. L. 1905, § 4736.

§ 237. **Instruments, records thereof, and copies.**—All original instruments and certified copies thereof authorized by law to be recorded, and, if recorded, the record thereof, or a duly certified transcript of such record, shall be received in evidence without further proof, subject to rebuttal.—R. L. 1905, § 4737.

§ 238. **Evidence of corporation or copartnership.**—In actions brought by a corporation or by any persons as copartners, or by the indorsees of any such corporation or copartners, upon any written instrument for the payment of money only, executed by the defendant to such corporation by its corporate name, or to such copartners by their firm name, the production in evidence of the instrument upon which the action is brought shall be prima facie evidence of the existence of such corporation, or that the persons named as payees in such instrument are, and at the time of its execution were, such copartners.—R. L. 1905, § 4738.

§ 239. **Marriage certificate and record.**—The original certificate and record of marriage, made by the person solemnizing such marriage as prescribed by law, and the record thereof or a duly certified copy of such record, shall be prima facie evidence of such marriage.—R. L. 1905, § 4739.

E—In Certain Cases.

§ 240. **Fact of marriage, how proved.**—When the fact of marriage is required or offered to be proved before any court, evidence of the admission of such fact by the party against whom the proceeding is instituted, or of general repute, or of cohabitation, as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent.—R. L. 1905, § 4740.

§ 241. **Confession, inadmissible when.**—A confession of the defendant shall not be sufficient to warrant his conviction without evidence that the offense charged has been committed; nor can it be given in evidence against him, whether made in the course of judicial proceedings or to a private person, when made under the influence of fear produced by threats.—R. L. 1905, § 4743.

§ 242. **Uncorroborated evidence of accomplice.**—A conviction cannot be had upon the testimony of an accomplice, unless it is corroborated by such other evidence as tends to convict the defendant of the commission of the offense, and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.—R. L. 1905, § 4744.

CHAPTER V.—TRIAL BY JURY.

§ 243. **Trial by the justice.**—After an issue of fact is joined, and when the parties are ready for trial, if neither party call a jury, the justice must try the issue alone. In doing this, he acts in a two-fold capacity—as a judge directing and controlling the proceedings of a jury according to the established rules of law, and as a juror trying the facts. The order of trial, the mode of examining witnesses, and the determining of the facts from the evidence adduced, is the same whether the trial be by jury or before the justice.

§ 244. **Demand for jury.**—After issue is joined in any civil action in justice court, and before the commencement of the trial thereof, either party, on first paying to the justice the jury fees in advance for one day's attendance, may demand that the action be tried by a jury.—R. L. 1905, § 3923.

§ 245. **Who exempt from jury duty.**—In addition to the persons otherwise exempted therefrom by the law, the following persons shall be exempt from service as grand jurors: United States officers, judges of courts of record, commissioners of public buildings, the state auditor, treasurer, and librarian, all county and city officers, including members of school boards in cities of the first class, constables, attorneys at law, ministers of the gospel, preceptors and teachers of high and graded schools and academies, one teacher in each common school, practicing physicians and surgeons, one miller to each gristmill, one ferryman to each licensed ferry, all acting telegraph operators, all members of fire companies organized according to law, all engineers actively engaged as locomotive or stationary engineers, all persons more than sixty years of age, all persons not of sound mind or discretion, and all persons subject to any bodily infirmity amounting to disability. All persons unable to speak and understand the English language, all persons whose names have been placed on any jury list at the request or suggestion, direct or indirect, of any person other than the officer charged with preparing such list, and all persons who shall have been convicted of any infamous crime, shall be disqualified from serving as grand jurors.—R. L. 1905, § 5263.

The above language applies also to petit jurors.

§ 246. **Jury, how chosen.**—Upon such demand being made, the justice shall direct the sheriff or any constable of the county to make a list in writing of the names of twenty-four persons qualified to serve as jurors in the district court, from which each party, commencing with the party demanding such jury, may strike alternately six names; and in case of the absence of either

party, or his refusal to strike, the justice shall strike for him: Provided, that upon consent of both parties, entered on the record, a jury of six may be ordered by the justice, in which case a list of eighteen names shall be made, from which each party may strike six.—R. L. 1905, § 3924.

§ 247. **Venire.**—The justice shall issue a venire requiring the officer to summon the persons whose names remain on such list to appear at a time and place mentioned therein to make a jury for the trial of said action, and, if, in his opinion, the jurors cannot appear forthwith, he shall adjourn the cause for such reasonable time as he deems proper to enable the officer to summon the jurors, and for them to appear.—R. L. 1905, § 3925.

§ 248. **Talesmen.**—If any juror shall not attend at the time, or if legal objections are raised to any who appear, the officer shall summon talesmen to supply the deficiency.—R. L. 1905, § 3926.

§ 249. **Jury sworn and kept together.**—The jury shall take the oath required by law, and, after the cause is submitted to them, shall be kept together in some convenient place, under the charge of the proper officer sworn for that purpose, until they agree upon a verdict, or are discharged by the justice.—R. L. 1905, § 3927.

§ 250. **Order of trial.**—When the jury is completed and sworn, the trial shall proceed in the following order, unless for special reasons the court shall otherwise direct:

1. The plaintiff, after stating the issue, shall produce the evidence on his part.

2. The defendant may then open his defense, and produce his evidence in support thereof.

3. The parties may then respectively offer rebutting evidence only, unless the court, in furtherance of justice, shall permit either to introduce evidence upon his original case.

4. When the evidence is concluded, unless the case be submitted by one side or both without argument, the defendant shall open and the plaintiff close the argument to the jury: Provided, that if the defendant have the affirmative of the issue to be tried, the foregoing order of trial shall be reversed.

5. If several defendants, having separate defenses, appear by different counsel, the court shall determine their relative order in respect to both evidence and argument.

6. When the argument is closed the court may charge the jury.—R. L. 1905, § 4171.

§ 251. **Sickness of juror—Food and lodging.**—If a juror becomes sick or otherwise unable to perform his duty, the court may discharge him. In that case, unless the parties consent to accept the verdict of the remaining jurors, another may be sworn in his place and the trial begun anew, or the jury may be discharged and another then or afterward impanelled. If the court,

while a jury is kept together, shall order that they be provided with food and lodging, the sheriff shall furnish the same at the expense of the county.—R. L. 1905, § 4173.

§ 252. **What papers jurors may take.**—On retiring for deliberation, the jury may take with them all papers received in evidence except depositions; but the court may direct that copies be made for their use of such records and documents as ought not, in its judgment, to be taken from those entitled to their possession. The jurors may also take with them notes of the testimony and proceedings made by themselves, but none others. All such papers, except the notes aforesaid, shall be returned to the clerk before the jurors are discharged.—R. L. 1905, § 4175.

§ 253. **Verdict, when received—Correcting same—Polling jury.**—While the jury are absent the court may adjourn from time to time, in respect to other business, but it shall be considered open, for all purposes, connected with the cause submitted, until a verdict is rendered or the jury discharged. A final adjournment shall discharge the jury. Before the verdict is recorded either party may require the jury to be polled, whereupon the clerk shall ask each juror if it be his verdict. If any answer in the negative, the jury shall be sent out for further deliberation. If the verdict be defective in form or insufficient, it may be corrected under the advice of the court, or the jury may be again sent out.—R. L. 1905, § 4176.

§ 254. **After retiring.**—Upon retiring for deliberation, the jury may take with them all papers (except depositions), which have been received as evidence in the cause; also notes of the testimony taken by themselves or any of them but none taken by any other person and can take nothing else. Before retiring the justice must administer to the officer taking charge of the jury the required statutory oath which the officer must very strictly adhere to. (For the statutory form of oath of officer taking charge of a jury see Part Third.) After retiring no person must be permitted to communicate with or overhear them, nor can the justice go and confer with them. Misconduct on the part of a jury will vitiate their verdict.

§ 255. **Verdict—Judgment.**—When the jurors have agreed upon their verdict, they shall deliver the same to the justice publicly, who shall enter the same in his docket, and render judgment according thereto.—R. L. 1905, § 3928.

§ 256. **Verdict in replevin.**—In an action for the recovery of specific personal property, if the property has not been delivered to the plaintiff and the jury find that he is entitled to its recovery, or if the property is not in the possession of the defendant, and by his answer he claims a return thereof, and the verdict is in his favor, the jury shall assess the value of the property and the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the detention, or

taking and withholding, of such property. Whenever the verdict is in favor of the party having possession of the property its value shall not be found.—R. L. 1905, § 4181.

§ 257. **Verdict.**—When the jury return into court the justice should call over their names and, then, in presence of the parties, say to the jury: “Gentlemen, have you agreed on your verdict?” To which the foreman might answer: “We have.” J.—“Who do you find for, the plaintiff or defendant?” F.—“We find” (stating the verdict and amount). J.—(noting down on paper the verdict) “Listen to your verdict as the court has recorded it. You say you find (repeating the verdict), and so say you all, gentlemen?” If no one dissents, this will be the verdict. If a jury do not agree till Sunday, the justice may receive the verdict, but must not enter judgment thereon till Monday.

§ 258. **Failure to agree.**—Whenever the justice shall be satisfied that a jury, after having been out a reasonable time cannot agree on a verdict, he may discharge them and issue a new venire, unless the parties consent that the justice may render judgment on the evidence already before him, or that a new trial be had before him.—R. L. 1905, § 3929.

§ 259. **Discharge of jury.**—A jury should not be discharged because upon the first comparison of opinions there happens to be a disagreement. Temperate discussion may produce unanimity, and time should be allowed for that purpose, but when the justice is satisfied that there is no reasonable prospect of an agreement by further discussion, he should discharge them.

§ 260. **Failure to appear—Punishment.**—Every person who, being duly summoned as a juror, shall fail to appear or render a reasonable excuse for such failure, or who shall refuse to serve, shall be subject to a fine of not more than \$10.—R. L. 1905, § 3930.

§ 261. **Challenges.**—Either party may challenge any juror for cause, and have him sworn to answer questions concerning the same, and may prove such cause by other evidence. Such challenge shall be decided by the justice.—R. L. 1905, § 3931.

§ 262. **Trial without jury.**—When the trial is before the justice without a jury, he shall hear the proofs and allegations of the parties, and, after the case has been submitted, shall permit no further evidence to be given, or suffer any communication from either party or from any other person in relation to such action, except in the presence of both parties, or on due notice thereof served upon the absent party, until he has rendered judgment.—R. L. 1905, § 3932.

CHAPTER VI—JUDGMENTS.

TITLE I.—CONFESSION OF JUDGMENT.

§ 263. **By confession.**—A justice may enter a judgment by confession of the defendant in any case when the debt or damage does not exceed \$100, upon compliance with the following requisites, viz.:

1. The defendant shall personally appear before the justice.
2. The confession shall be in writing, signed by the defendant, and verified by his oath, and filed with the justice.

3. If it is for money due or to become due, the confession shall state concisely the facts out of which it arose, and show that the sum confessed therefor is justly due or to become due.

4. If it is for the purpose of securing a contingent liability, it shall state concisely the facts constituting the liability, and show that the sum confessed therefor does not exceed the same.

—R. L. 1905, § 3933.

§ 264. **Same—Costs—Judgment roll.**—The statement and affidavit shall be filed with the justice, who shall indorse upon it the time of filing and enter in his docket a judgment for the amount confessed with \$1.00 costs. The statement and affidavit, with the judgment indorsed thereon, thereupon constitute the judgment roll.—R. L. 1905, § 3934.

§ 265. **Time of entry.**—In cases where the action is dismissed, or the plaintiff withdraws his action, or is nonsuited, or where judgment is confessed, and where a verdict is rendered, the justice shall forthwith render judgment, and enter the same in his docket. In all other cases, he shall render judgment and enter the same in his docket within three days after the action is submitted to him for decision.—R. L. 1905, § 3935.

§ 266. **Formal entry of judgment.**—There should always be a formal entry of judgment in the docket of the justice at or within the time required by statute, and the mere intention of the justice to do so is not sufficient. The law requires a record of the fact, and a memorandum thereof is not sufficient, and merely entering the verdict is not rendering judgment. A judgment not rendered or entered within the time required by statute is void, and will be reversed on appeal on questions of law alone.

§ 267. **For costs on dismissal.**—Whenever an action is dismissed, judgment shall be rendered for costs and execution may issue to enforce such judgment in the same manner and with the same effect as in other cases.—R. L. 1905, § 3936.

§ 268. **Dismissal of action.**—An action may be dismissed, without a final determination of its merits, in the following cases:

1. By the plaintiff at any time before the trial begins, if a provisional remedy has not been allowed, or a counterclaim made or other affirmative relief demanded in the answer; provided that an action on the same cause of action against any defendant shall not be dismissed more than once without the written consent of the defendant or an order of the court on notice and cause shown;

2. By either party, with the written consent of the other, or by the court upon the application of either party after notice to the other and sufficient cause shown, at any time before trial;

3. By the court where, upon the trial and before the final submission of the case, the plaintiff abandons it, or fails to substantiate or establish his cause of action or right to recover;

4. By the court when the plaintiff fails to appear on the trial, and the defendant appears and asks for the dismissal;

5. By the court on the application of some of the defendants, when there are others whom the plaintiff fails to prosecute with diligence.

All other modes of dismissing an action are abolished. The dismissal mentioned in the first two subdivisions is made by an entry in the clerk's register and notice to the adverse party. In all cases other than those mentioned in this section, the judgment shall be rendered on the merits.—R. L. 1905, § 4195.

When an action is dismissed without a final determination of its merits, the judgment is no bar to another action. But where the cause has been finally submitted and a judgment rendered on the merits, the judgment is a bar to another action for any of the matters litigated in the action.

§ 269. Mutual judgments set off.—If there are mutual justices' judgments between the same parties, upon which the time for appeal has expired and on which there is no existing execution, on the application of either party, and reasonable notice given to the adverse party, one judgment may be set off against the other by the justice who rendered the judgment against which the set-off is proposed.—R. L. 1905, § 3937.

§ 270. Set-off when before different justices.—If the judgment proposed as a set-off was rendered before another justice, the party proposing such set-off shall produce before the justice a transcript of such judgment, accompanied by a certificate of the justice rendering the same that it is unsatisfied, in whole or in part, and that there is no appeal or existing execution thereon, and that such transcript was obtained for the purpose of being a set-off against the judgment to which it is offered as such. The justice granting such transcript shall make an entry thereof in his docket, and all further proceedings on such judgment shall be stayed unless such transcript is returned with the proper justice's certificate thereon that it has not been allowed in set-off.—R. L. 1905, § 3738.

§ 271. **Duty of justice.**—If any justice shall set off one judgment against another, he shall make an entry thereon in his docket, and execution shall issue only for the balance. If the justice allows the transcript of a judgment rendered by another justice to be set off, he shall file such transcript among the papers relating to the judgment to which it is allowed as a set-off. If he refuses such transcript as a set-off, he shall so certify on the same, and return it to the party who offered it.—R. L. 1905, § 3739.

§ 272. **Bond for restitution, when.**—Where the summons is served by publication, or by leaving a copy thereof at the last usual place of abode of the defendant, before judgment is rendered the plaintiff shall cause to be filed with the justice a bond, with sufficient sureties, to be approved by the justice, in double the amount of the judgment claimed, conditioned that if the defendant, within six months from the rendition of the judgment, shall appear and be admitted to defend the action, the plaintiff will abide the order of the court therein, and will refund all sums collected upon such judgment, and make restitution of all property received in virtue thereof, if ordered by the court, and pay all costs and damages that may be adjudged against him.—R. L. 1905, § 3940.

§ 273. **Defense after judgment.**—At any time within six months from the rendition of the judgment as provided in the preceding section, the defendant shall be permitted to appear and defend such action upon complying with the following conditions:

1. He shall serve a notice upon the plaintiff, his agent or attorney, specifying that on the day therein named, which shall not be less than three nor more than ten days from the day of service thereof, he will apply to the justice before whom the judgment was rendered, or his successor in office, to have it reopened.

2. He shall file a bond with said justice, with sureties approved by him, in a sum double the amount of the judgment, conditioned that he will abide the order of the court in the case, and pay all costs and damages that may be adjudged against him therein.

3. He shall file a verified answer. If such answer contains a good defense to any cause of action stated in the complaint, the justice shall order the judgment reopened, and like proceedings shall thereafter be had therein as in other civil causes in justice's court.—R. L. 1905, § 3941.

§ 274. **Transcript—Docketing in district court.**—Every justice who has rendered judgment for more than \$10, exclusive of costs, or who has the custody, by virtue of his office, of the docket of a former justice in which any such judgment appears, on demand and payment of his fees, shall give to the person in whose favor such judgment was rendered a certified transcript

thereof. Upon filing such transcript with the clerk of the district court of the county, such clerk shall forthwith enter such judgment in the district court judgment docket, and note thereon the time of such filing.—R. L. 1905, § 3942.

§ 275. **Effect of filing transcript—Execution.**—From the time of filing the transcript thereof, every such judgment shall become a lien on the real estate of the defendant to the same extent as a judgment of the district court, shall be equally under its control, and execution shall issue thereon in the same manner and with like effect as upon a judgment of such court, and upon filing with the clerk of the district court of any other county a transcript of the original docket of the justice's judgment in the district court of the county in which it was rendered, such judgment shall be docketed therein, and thereupon become a lien upon the real property of the judgment debtor in such county in the same manner as in the case of filing transcripts of judgments in district court. But no execution shall be issued thereon out of any district court until an execution has been issued by the justice, and returned that the defendant has no personal property whereon to levy the same, which shall appear by the certificate of the justice filed with the clerk of the court.—R. L. 1905, § 3943.

§ 276. **Execution, on what levied.**—In cases where the summons was served by publication, any execution issued out of a district or justice court shall be enforced only against property seized or attached by virtue of attachment or garnishee process issued in the action.—R. L. 1905, § 3944.

§ 277. **Legalizing sale of real estate under execution in certain case—Transcript.**—That in all cases where judgment has been rendered in any justice court of this state and transcribed to the district court in the proper county and execution issued out of the district court on said judgment, and levies and sales of real estate made under and pursuant to said execution without first having an execution issued and returned unsatisfied in justice court as provided by law, such levies and sales made thereunder are hereby in all things legalized and said sales declared as valid and effective in all respects as if the execution had been duly issued and been returned unsatisfied in justice court before said transcript had been issued and filed in the district court, provided this act shall not apply to any action now pending.—G. L. 1905, Chap. 258.

§ 278. **Presumption in favor of judgment.**—Whenever a judgment rendered by a justice of the peace has remained undisturbed for a period of not less than two years, the jurisdiction of the justice over the parties and subject-matter of the action at the time of rendering the same shall be presumed, when it appears from the docket or a transcript thereof on file in the office of the clerk of the district court of the proper county that at the

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time of rendering such judgment he had acquired such jurisdiction.—R. L. 1905, § 3945.

§ 279. **Measure of relief granted.**—As against a defendant who does not answer, the relief granted to plaintiff shall not exceed that demanded in the complaint. Against all others, he may have any relief consistent with the complaint and within the issue actually tried.—R. L. 1905, § 4264.

§ 280. **Judgment in replevin.**—In an action to recover the possession of personal property, judgment may be rendered for the plaintiff and for the defendant, or for either. Judgment for either, if the property has not been delivered to him, and a return is claimed in the complaint or answer, may be for the possession, or the value thereof, in case possession cannot be obtained, and damages for the detention or the taking and withholding thereof. When the prevailing party is in possession of the property, the value thereof shall not be included in the judgment. If the property has been delivered to the plaintiff, and the action be dismissed before answer, or if the answer so claim, the defendant shall have judgment for a return, and damages, if any, for the detention, or the taking and withholding, of such property; but such judgment shall not be a bar to another action for the same property or any part thereof.—R. L. 1905, § 4267.

§ 281. **Assignment of judgment—Mode and effect.**—Every assignment of a judgment shall be in writing, signed and acknowledged by the assignor, and no such assignment shall be valid as against a subsequent purchaser of the judgment in good faith for value, or against a creditor levying upon or attaching the same, unless it is filed with the clerk and an entry thereof made in the docket. When so filed and entered, none but the assignee, his agent or attorney, shall be authorized to collect or enforce such judgment: Provided, that the lien of an attorney thereon shall not be affected by the assignment.—R. L. 1905, § 4276.

§ 282. **How discharged of record.**—Upon the satisfaction of a judgment, whether wholly or in part, or as to all or any of several defendants, the clerk shall enter such satisfaction in the judgment book, and note the same, with the date thereof, on the docket. If the docketing be upon a transcript from another county, the entry on the docket shall be sufficient. A judgment shall be deemed satisfied when there is filed with the clerk:

1. An execution satisfied, to the extent stated in the sheriff's return thereon.

2. A certificate of satisfaction signed and acknowledged by the judgment creditor.

3. A like certificate signed and acknowledged by the attorney of such creditor, unless his authority as such has previously been revoked, and an entry of such revocation made upon the register; but the authority of an attorney to satisfy a judgment shall cease at the end of two years from its entry.

4. An order of the court, made on motion, requiring the execution of a certificate of satisfaction, or directing satisfaction to be entered without it.

5. Where a judgment is docketed on transcript, a copy of either of the foregoing documents, certified by the clerk of the court in which the judgment was originally entered and in which the originals were filed.

A satisfaction made in the name of a partnership shall be valid if executed by a member thereof while the partnership continues. The judgment creditor, or his attorney while his authority continues, may also satisfy a judgment of record by a brief entry on the register, signed by him and dated and witnessed by the clerk, who shall thereupon note such satisfaction on the margin of the docket. And, whenever a judgment is satisfied otherwise than by return of execution, the judgment creditor or his attorney shall give a certificate thereof.—R. L. 1905, § 4278.

§ 283. **Discharge of judgments against bankrupts.**—Any person discharged from his debts pursuant to the act of Congress known as “An act to establish a uniform system of bankruptcy throughout the United States, approved July first (1st), eighteen hundred and ninety-eight (1898)” and all amendments thereto, may, after the expiration of one year from the date of such discharge, apply to any court of record in which a judgment shall have been rendered or a transcript thereof filed against him, for the discharge thereof from record, and if it shall appear to the court that he has thus been discharged from the payment of such judgment, the court may order and direct that such judgment be discharged and satisfied of record, and thereupon the clerk of such court shall enter a satisfaction thereof; provided, however, that no such application shall be made or order granted except upon ten (10) days’ notice of such application to the judgment creditor whose judgment is sought thereby to be satisfied of record, his executors, administrators or assigns, served in the manner provided for the service of notices in civil actions, or in case such creditor, or his executors, administrators or assigns, shall not reside within the state of Minnesota, in such manner as the court shall provide by order; provided, further, that nothing in this act shall be construed to apply to judgments not listed among the liabilities of the bankrupt in his petition to be adjudged a bankrupt under the act of July first (1st), eighteen hundred ninety-eight, and all amendments thereto.—G. L. 1909, Chap. 230.

§ 284. **Joint debtors—Contribution and subrogation.**—Whenever a judgment against two or more persons shall be enforced against or paid by one of them, or one of them shall pay more than his proper share as between himself and the other judgment debtors, he may continue the judgment in force for the purpose of compelling contribution; and if, within ten days after such enforcement or payment, he shall file with the clerk

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a notice of the amount paid by or collected from him in excess of his proper share, and of his claim for contribution, the clerk shall make a note thereof on the margin of the docket. Thereupon the judgment shall remain in effect in favor of the party filing such notice for the amount and against the party in such notice specified.—R. L. 1905, § 4281.

Sections 282 and 284 above express the law applicable to district courts, and courts of record generally, and are inserted here as reference. See § 40.

§ 285. **Several judgments against joint debtors.**—All parties to a joint obligation, including negotiable paper, copartnership debts, and all contracts upon which they are liable jointly, shall be severally liable also for the full amount thereof. They may be sued thereon jointly, or separate actions may be brought against each or any of them, and judgment rendered in each, without barring an action against any of those not included in such judgment, or releasing any of those not sued: Provided, that the court, upon its own motion or on application of any interested party, may require the plaintiff to bring in as defendants all the parties jointly liable on the obligation in suit.—R. L. 1905, § 4282.

§ 286. **Discharge of joint debtor.**—A creditor who has a debt, demand, or judgment against a copartnership, or several joint obligors, promisors or debtors, may discharge one or more of such copartners, obligors, promissors, or debtors, without impairing his right to recover the residue of his debt or demand against the others, or preventing the enforcement of the proportionate share of any undischarged under such judgment. The discharge shall have the effect of a payment by the party discharged of his equal share of the debt, according to the number of debtors, aside from sureties: Provided, that such discharge shall not affect the liability of such copartners, obligors, promisors, or debtors to each other. In an action by the creditor to recover against those not discharged, the complaint shall set forth that the contract was made with the defendants and the party discharged, and that such party has been discharged.—R. L. 1905, § 4283.

TITLE II.—COSTS AND FEES IN JUSTICE COURTS.

§ 287. **Costs to prevailing party.**—“In all civil actions, unless otherwise provided, the party in whose favor judgment is given shall recover costs.” The taxable costs in justice court generally consist of: The fees of the justice; the fees of the constable or other officer serving the process; the fees of witnesses and jurors, and disbursements for printer’s affidavit, copies of documents or papers, or for depositions, if the same were used upon the trial. The prevailing party only recovers costs by judgment: the losing party must pay his own costs, and it is error to tax them in the judgment.

§ 288. **In actions for services—Double costs.**—Whenever any person, having employed another to perform any labor or service, shall neglect or refuse for thirty days after the same is due and payment demanded, to pay the agreed price, or the reasonable value, if there be no agreement, and the same shall be recovered by action, there shall be allowed to the plaintiff, and included in his judgment, in addition to his disbursements allowed by law, five dollars costs if the judgment be recovered in a justice court and a like sum if the judgment be recovered in a municipal court where no statutory costs are now allowed in such municipal court in such action, and double costs in all other actions wherein costs are recoverable or on appeal.—R. L. 1905, § 4339, as amended, G. L. 1907, Chap. 200.

§ 289. **Against guardian of infant plaintiff.**—When costs or disbursements are adjudged against an infant plaintiff, the guardian by whom he appears in the action shall be responsible for them, and judgment therefor may be entered against both infant and guardian.—R. L. 1905, § 4347.

§ 290. **Fees of constables.**—For serving a warrant or other writ, not herein provided for, 25 cents for each person named therein and served;

2. For a copy of every summons delivered on request, or left at the residence of defendant, 15 cents;

3. Serving a subpoena or summons, 15 cents for each person named therein and served;

4. Serving an attachment, 50 cents;

5. Each copy of an attachment, 15 cents;

6. Each copy of inventory of property seized on attachment, 15 cents;

7. Serving summons on garnishee, 50 cents;

8. Copy of any affidavit or other paper not herein provided for, 10 cents per folio;

9. Posting each notice, 15 cents;

10. Attending on justice's court, when required by the justice, \$1 per day;

11. For travel to and from the place of service, when necessary in serving any process or paper authorized to be served by them, 10 cents per mile;

12. Committing to prison, 50 cents;

13. Summoning a jury, \$1;

14. Writing a list of jurors, 15 cents;

15. Attending on a jury, 50 cents;

16. On all sums collected on execution and paid over, charged upon the judgment debtor, 5 per cent.;

17. Serving a writ of replevin, 50 cents;

18. Summoning and swearing appraisers and taking appraisal, 50 cents;

19. Taking and approving security in any case, 25 cents.

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20. A constable shall be allowed all reasonable and necessary expenses actually paid out for food and lodging furnished by him for any prisoner, at not to exceed one dollar per day while having such prisoner in custody pending trial and while conducting such prisoner to jail, together with the transportation charges for said prisoner paid to a common carrier. Provided, that where adjournment is for longer than three days, the prisoner shall be committed to the county jail.—R. L. 1905, § 2700, as amended, G. L. 1907, Chap. 190.

§ 291. **Fees of justices of the peace.**—Justices of the peace shall be entitled to the following fees, and may tax them in cases when applicable:

1. For a summons, warrant, or subpoena, 25 cents;
2. For a venire for a jury, 25 cents;
3. For a warrant in a criminal case, 25 cents;
4. Taking a recognizance of bail, 25 cents;
5. For a writ of attachment, 25 cents;
6. Entering a judgment, 25 cents;
7. For taking and approving any bond, security, or recognizance when required by law so to do, 25 cents;
8. Swearing a jury, 25 cents;
9. Entering a satisfaction of judgment, 25 cents;
10. Entering amicable suit without process, 25 cents;
11. For a transcript of judgment, 25 cents;
12. Opening a judgment for rehearing, 25 cents;
13. Issuing notice to take deposition, 25 cents;
14. For a search warrant, 25 cents;
15. For a commitment to jail, 25 cents;
16. For an order to bring up prisoner, 25 cents;
17. For an order issued to jailer to discharge prisoner, 25 cents;
18. For an execution, 25 cents;
19. For any other writ not herein specially named, 25 cents;
20. For taking and certifying an acknowledgment of a deed, for each grantor named, 25 cents;
21. Administering an oath, or certifying to the same when administered out of court, 15 cents;
22. Every adjournment, 15 cents;
23. Entering any order, motion, objection, or exception, 15 cents;
24. Discharging a prisoner after hearing on motion to discharge, 15 cents;
25. Taxing costs, 15 cents;
26. Taking an examination, deposition, or confession, 15 cents per folio;
27. For entering proceedings in his docket, 15 cents per folio;

Note to § 291. See § 23.

28. For copies of proceedings, or of any paper or examination in any case, when demanded, 15 cents per folio;
29. For every affidavit or other paper drawn for which no other compensation is allowed by law, 15 cents per folio;
30. Issuing commission to take testimony, 50 cents;
31. Taking recognizance, certifying oath or affidavit, and making return to an appeal, including travel, \$2;
32. Performing marriage ceremony and making return thereof, \$1.50;
33. Holding an inquisition in cases of forcible entry and detainer, in addition to other fees, \$1;
34. For filing every paper required to be filed, 5 cents;
35. For necessary travel in the performance of his duty, when not otherwise provided for, 10 cents per mile.—R. L. 1905, § 2702.

§ 292. **Justices' fees.**—The compensation of justices for other official acts, not here specially mentioned, may be inferred from the foregoing table. Thus, drawing a garnishee affidavit, or taking the examination of a garnishee, is to be computed at fifteen cents per folio. A "folio" means one hundred words, counting every figure necessarily used as a word. Thus "1900" has four figures and counts as four words. A fraction of a folio at the end of a draft is to be computed as a full folio. Thus, three hundred and twenty words count as four folios. The manner of taxing the costs in the margin of the docket is shown in the form of docket entries given in Part Third. For drafting a deed, contract or any other paper to be used in business, the justice is entitled to such sum as the parties agree upon, or what is fair and reasonable; usually from fifty cents to one dollar.

§ 293. **Fees in justice courts—Costs and disbursements.**—1. In all civil actions, unless otherwise provided, the winning party shall recover costs.

2. On entering a judgment for costs, the justice may tax the same without notice.

3. The justice shall not allow travel fees to witnesses unless proved by the oath of some person qualified to testify in the action.

4. No travel fees for serving a subpoena shall be allowed unless charged by a constable or sheriff, or proved by the oath of the person serving it.

5. No costs shall be taxed for the attendance of more than two witnesses to each particular fact.

6. No fees for copies of exemplifications of documents or papers, or for depositions, shall be allowed unless the same were used upon the trial.

7. No disbursements shall be allowed except to officers unless the items are particularly specified and proved, and the justice shall determine that the same are necessary and reasonable in amount.

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8. The justice shall hear evidence to prove that any charge is unreasonable in amount, or that the service has not been rendered.—R. L. 1905, § 2703.

§ 294. **In criminal proceedings.**—In all criminal actions, upon conviction of defendant, in addition to the punishment prescribed, and as a part of the sentence, the court may adjudge that defendant shall pay the whole or any part of the disbursements of the prosecution; and payment thereof may be enforced in the same manner as the sentence, or by execution against property. When collected, such disbursements shall be paid into the treasury of the county where conviction was had, but this shall not interfere with the payment of officers', witnesses', or jurors' fees.—R. L. 1905, § 4352.

§ 295. **Fees of witnesses.**—1. For attending in any action or proceeding in any court of record, in any justice court, or before any officer, person, or board authorized to take the examination of witnesses, \$1, for each day;

2. For travel in going to and returning from the place of attendance, to be estimated from his residence if within the state, or from the boundary line of the state where he crosses the same, if without the state, 6 cents per mile.

But no person is obliged to attend as a witness in any civil case unless one day's attendance and travel fees are paid or tendered him in advance; and no officer or employee of any county, village, or city shall receive any witness fees in any case in which the state or any county or city therein, of which he is an officer or employee is a party, if the case be tried in the village or city of which he is a resident.—R. L. 1905, § 2709.

§ 296. **City, village, or county officials prohibited from receiving fees as witnesses.**—No officer or employee of any city, village or county in this state shall hereafter receive or be paid any sum as witness fees in any case in which the state of Minnesota, the county, the city, or the village, of which he is an officer or employee is a party, if the case be tried in the city or village of which he is a resident.—G. L. 1905, Chap. 141.

§ 297. **Fees in criminal cases.**—Witnesses for the state in criminal cases shall receive the same fees for travel and attendance as provided in the preceding section, and judges of the district court may, in their discretion, allow like fees to witnesses attending in behalf of any defendant. In courts of record said witness fees shall be certified and paid in the same manner as jurors and in justice courts such fees shall be a county charge, and paid in the same manner as other county charges.—R. L. 1905, § 2710.

§ 298. **Coroner and justice jurors.**—Each juror sworn before a coroner at an inquest taken by him shall receive \$1 for each day's attendance and 10 cents for each mile traveled in going to and returning from the place of holding the same, the distance to be computed by the usually traveled route, and paid out of

the county treasury. The coroner shall deliver to each juror a certificate for the number of days' attendance and miles traveled for which he is entitled to compensation.

Each juror sworn in any action pending in a justice court, or before any sheriff on a writ of inquiry, shall receive \$1, to be paid in the first instance in all civil actions by the party calling for such jurors.

The certificate of the coroner for services rendered as a juror before him shall be filed with the county auditor, who shall draw his warrant upon the county treasurer for the amount, and such certificate shall be sufficient voucher for the issuance of such warrant.—R. L. 1905, § 2713.

§ 299. Officers to post list—Penalty.—Every officer whose fees are fixed by this chapter shall post in some conspicuous place in his office a printed list thereof for the inspection of the public. Failure so to do shall render him liable to a forfeiture of \$2 for each day of such failure, to be recovered in a civil action in the name of any citizen, before a justice of the peace.—R. L. 1905, § 2716.

§ 300. Fees for services not rendered—Illegal fees—Penalty.—No judge, justice, sheriff, or other officer, or any other person to whom any fee or compensation is allowed by law for any service, shall take or receive any other or greater fee or reward for such service than he is allowed by law, and no fee or compensation shall be demanded or received by any officer or person for any service unless the same was actually rendered, except in the case of prospective costs, as hereinafter specified. Any person violating either of the foregoing provisions shall be liable to the party aggrieved for treble the damages sustained by him.—R. L. 1905, § 2717.

§ 301. Taxation for services not rendered—Prospective costs—Attorney as witness.—No fees shall be taxed for services not rendered, except when otherwise expressly provided, and upon entry of judgment or decree no prospective costs shall be taxed except for docketing the same, unless the party demanding judgment shall require the costs of an execution or transcript of judgment to be taxed, in which case it may be done. No attorney or counsel in any cause shall be allowed witness fees therein.—R. L. 1905, § 2718.

§ 302. Fees for copies—Itemized, when—Penalty—Same services.—The legal fees paid for certified copies of the depositions of witnesses filed in any clerk's office, or any documents or papers filed or recorded in any public office, necessarily used on trial of a cause or on the assessment of damages, shall be allowed in the taxation of costs. Any officer receiving fees shall, on demand, furnish an itemized list and receipt the same on payment. On refusal to do so, he shall be liable to the party paying the same for three times the amount paid. Every officer shall be

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entitled to the same fees for performing the same service.—R. L. 1905, § 2719.

§ 303. **Limitations.**—No fees are allowed to any officer for traveling in order to serve process unless the service is actually made; nor for any services unless such services were actually rendered. Separate mileage for each party or witness is not allowed; it must be only the actual and necessary travel over the whole route traveled by the constable, from the office of the justice around to his office again. The same rule holds true in the service of all process.

§ 304. **Fees, etc., of witness in criminal cases—When and how paid.**—Whenever it shall appear that any witness subpoenaed or required to appear on behalf of the state has come from another state or country or is poor, the court may, by order upon the minutes, direct the county treasurer to pay such witness a reasonable sum for expenses. Whenever a prosecution in the name of the state fails, or the defendant proves insolvent, escapes, or is unable to pay the fees when convicted, the same shall be paid out of the county treasury, unless otherwise ordered by the court. The Attorney General or county attorney in each county may issue subpoenas and compel the attendance of witnesses in behalf of the state or county without payment of fees in advance, and in criminal cases the witnesses for the defendant shall also be compelled to attend without payment of fees in advance, and failure to attend after being served with a subpoena shall subject any witness to be proceeded against in the same manner as provided by law in other cases where payment of fees is required to be paid in advance. The clerk of any court in which a witness has attended in behalf of the state in a civil action shall give such witness a certificate of attendance and travel, which shall entitle him to receive the amount from the county treasurer.—R. L. 1905, § 2720.

CHAPTER VII.—EXECUTIONS AND PROCEEDINGS THEREON.

§ 305. **Stay, when granted.**—Execution upon a judgment by a justice of the peace may be stayed in the manner hereinafter provided, and for the following periods of time, to be calculated from the day of the judgment, but a longer period may be agreed upon:

1. If the judgment be for a sum not exceeding \$10, exclusive of costs, one month.

2. If it be for a sum above \$10 and not exceeding \$25, two months.

3. If it be for a sum above \$25 and not exceeding \$50, three months.

4. If it be for any sum above \$50, six months.—R. L. 1905, § 3946.

§ 306. **Recognizance.**—No such judgment shall be stayed unless the party applying therefor, within ten days after the judgment is rendered, shall file with the justice a recognizance to the adverse party, in double the amount of the judgment, including costs, executed by one or more responsible persons, not parties thereto, who shall justify, approved by the justice, conditioned for the payment of the judgment and costs, with interest at the rate of 6 per cent per annum, and authorizing the justice to issue execution for such amount in default of payment.—R. L. 1905, § 3947.

§ 307. **Form of recognizance.**—The recognizance may be in the following form:

“We, A. B. and C. D., acknowledge ourselves indebted toin the sum ofdollars, to be levied and collected of our several goods and chattels, if default be made in the conditions following:

“Whereas, obtained judgment before, a justice of the peace of the county of, on the..... day of, 19...., against: Now, if such judgment, costs, and interest shall be paid at the expiration ofmonths from the time it was rendered, this recognizance shall be void.

“(Signed)

“Dated

“Taken and acknowledged before me the date aforesaid.

.....
“Justice of the Peace.”
—R. L. 1905, § 3948.

§ 308. **Execution at end of stay.**—If at the expiration of the stay the judgment be not paid, execution shall issue against both principal and bail. If the principal do not satisfy the execution, and the officer cannot find sufficient property belonging to him upon which to levy he shall levy upon the property of the bail, and in his return shall state when the same was received.—R. L. 1905, § 3949.

§ 309. **Execution, when issued.**—Upon every judgment rendered by a justice, except when stayed as aforesaid, execution shall be issued by such justice, or his successor in office, or any other justice lawfully having custody of the docket containing such judgment, in the manner hereinafter prescribed, at any time upon demand after the expiration of the time allowed by law for appeal.—R. L. 1905, § 3950.

§ 310. **What to contain.**—The execution shall command the officer to levy upon the personal property of the person against whom the same shall be granted, except such as is exempt by law to satisfy the debt or damages, with interest and costs, and to pay the money to the justice within thirty days.—R. L. 1905, § 3951.

§ 311. **Entries in docket—Indorsement.**—Before any execution is delivered, the justice shall state in his docket, and also on the back of the execution, the amount of the debt or damages and costs, separately, and the officer receiving such execution shall indorse thereon the time of its reception by him.—R. L. 1905, § 3952.

§ 312. **Constable's duties on executions.**—Upon receiving an execution the constable should see that it conforms to all the requirements of the statute regulating process; that it is regular on its face; that more than ten days have elapsed since the date of the judgment; that the justice has indorsed the amount on its back as required, and that all the blanks are filled; else it will be void. He should also see that the person whose property he is required to seize is rightfully named in the execution. If it be an execution issued after a stay, he should see that the term of the stay has expired before the date of the execution. A constable's duties and responsibilities in reference to levies upon personal property under an execution are among the most important and delicate that he is called upon to discharge.

§ 313. **Constable's duties on execution.**—After examining the execution the constable should indorse on the back the time of its reception by him, and then promptly proceed to execute it. If he finds any property of the defendant in his possession in his county subject to levy, it is his duty to make a levy, even if it is claimed by the defendant that it has been sold or assigned or mortgaged, or is under a previous levy. But if he finds by the records or otherwise that defendant's statements are true he may refuse to make the levy, or abandon it if made, unless the plaintiff directs him to proceed and indemnifies him from all damage

arising therefrom, if he requests him to do so. Where property is subject to levy, the levy thereon must be so made that the same will hold good not only as against the defendant, but also as against bona fide purchasers without notice, and subsequent execution creditors. And he should make a sufficient levy in the first instance to satisfy the execution, if he can, though not an excessive levy; and in determining the amount necessary, he should take into account the probable sacrifice to which it would be subject at public sale.

§ 314. **Renewal.**—If any execution is not satisfied, it may, at the request of the plaintiff, be renewed from time to time by the justice issuing the same, by an indorsement to that effect, dated and signed. If any part of such execution has been satisfied, the indorsement of renewal shall express the sum due on the execution. Every such indorsement shall renew the execution in full force in all respects for thirty days, and no longer, and an entry of such renewal shall be made in the docket of the justice.—R. L. 1905, § 3953.

§ 315. **Execution after filing transcript.**—If an execution shall not have been issued prior to the filing of a transcript of the judgment in the district court, the justice may issue an execution upon such judgment after the filing of such transcript, and, on the return thereof unsatisfied in whole or in part, shall, on demand of the judgment creditor, deliver to him a certified transcript of the entries in his docket relating to the issue and return of such execution, the amount collected thereon, and the costs accrued since the entry of judgment. Upon filing such transcript with the clerk of the court, he shall make a note of the facts in the docket where such judgment is entered, and thereafter execution may issue out of the district court for the amount of such judgment unsatisfied, with interest and accrued costs.—R. L. 1905, § 3954.

§ 316. **Indorsement—Notice of sale.**—The officer, after taking property into his custody by virtue of the execution, shall indorse thereon the time of the taking, and a description thereof, and shall also, without delay, give at least ten days' posted notice in the election district where the property is to be sold, containing a description of the property, and the time and place when and where the same will be exposed for sale.—R. L. 1905, § 3955.

§ 317. **When certain property levied upon.**—Where property needing care and attention, as, for instance, work horses, milk cows, or other property, is levied on, the constable should so care for and use it as to preserve the property from depreciation of its value, making reasonable charges therefor.

§ 318. **Sale—Return.**—At the time and place so appointed, the officer shall expose the property to sale at public vendue to the highest bidder, and he shall in all cases return the execution, and have the money before the justice at the time of making such return.—R. L. 1905, § 3956.

§ 319. **Conduct of sale.**—In case of no bidders, or if the property cannot all be sold before sunset, or if anything occurs to prevent the sale, the sale should be postponed until the next day, or until some convenient time. If postponed till the same or the next day, it will be sufficient to announce such postponement at the time and place of the sale. If postponed to a time beyond the next day, notices of such postponement should be posted, as on the original sale. If the original notices are standing, it will be sufficient to annex notices of postponement thereto.

§ 320. **Rules of sale.**—The same rules prevail at a constable's sale as at other auction sales. The bargain is not struck till the article is knocked down, until which, the bid being a mere proposition, may be withdrawn. But when the article is knocked down, if the bidder does not receive it and pay the money, the article may be sold again, and the first bidder must pay the constable the loss upon the second sale, or he may treat the first sale as final and sue the purchaser for the whole amount bid by him.

§ 321. **Officer not to purchase.**—No officer shall directly or indirectly purchase any property at any sale made by him upon execution.—R. L. 1905, § 3957.

§ 322. **Receipt of money tendered.**—Every officer holding an execution shall receive and indorse thereon all money tendered to him in payment thereof, and shall give the person paying the same a receipt therefor, specifying on what account the same was paid.—R. L. 1905, § 3958.

§ 323. **Prior executions.**—If the constable has two or more executions against the same defendant, and in favor of different creditors, it is his duty to execute first those which are first delivered to him, and in the order in which they came into his hands. The execution first levied has the first lien on the property, though there may be others in the hands of the constable, and the liens of the other executions attach in the order of the levies as actually made. The money arising from the sale must be applied first upon the execution first levied, and when that is satisfied, must apply on the next, in the order of the respective levies.

§ 324. **When enforced.**—The party in whose favor a judgment is given, or the assignee of such judgment, may proceed to enforce the same, at any time within ten years after the entry thereof, in the manner provided by law.—R. L. 1905, § 4287.

§ 325. **Judgments, how enforced.**—Where a judgment requires the payment of money, or the delivery of real or personal property, it may be enforced in those respects by execution. Where it requires the performance of any other act, a certified copy of the judgment may be served upon the party against whom it is given, or the person or officer who is required thereby or by law to obey the same; and, if he refuses, he may be punished by

the court as for contempt, and his obedience thereto enforced.—R. L. 1905, § 4288.

§ 326. **Kinds of execution.**—There shall be two kinds of executions, one against the property of the judgment debtor, and the other for the delivery of real or personal property, or such delivery with damages for detaining, or for taking and withholding, the same.—R. L. 1905, § 4289.

§ 327. **What may be levied on, etc.**—All property, real and personal, including rights and shares in the stock of corporations, money, book accounts, credits, negotiable instruments, and other evidences of indebtedness, may be levied upon and sold on execution. Until a levy, property not subject to the lien of the judgment is not affected by the execution.—R. L. 1905, § 4296.

§ 328. **Levy on personalty.**—Personal property capable of manual delivery shall be levied upon by the officer taking it into his custody.—R. L. 1905, § 4298.

§ 329. **Levy on personal property.**—Personal property capable of manual delivery is such as goods and merchandise, cattle, horses, grain, or anything that can be handled by the officer. The statute declares that he must take it into his custody, that is to say, into his keeping; or in other words, he must keep, as well as take. His custody must be such as to enable him to retain and assert his power and control over the property, and so that it cannot probably be withdrawn or taken by another without his knowing it. He may leave it with the defendant, but it will be at his own risk. So, he may leave it with any other persons and take their receipt and they become responsible to him for its forthcoming, but in all these cases the officer alone is responsible in fact to the parties for the possession of the property levied on. In all cases he should indorse his levy, describing the property levied on, upon the writ, at the time of the levy.

§ 330. **Breaking doors, etc.**—In his search for goods the constable cannot break the outer door of a dwelling, and if he does break in, he cannot enter in to levy. And in such case even a visitor at the house may lawfully resist him. Nor can he open the door though it be only latched, nor enter when the family is absent, against the wishes of the occupant. But when the door is open he may enter and seize the defendant's goods, and if necessary, after demand and refusal, may break open any inner door, trunk, box, closet, drawers, or other inclosure in search of goods of the debtor. So, after requesting admission and being refused, he may break open the outer or inner doors of a store, shop, warehouse, barn or other building not inhabited, and not annexed to or forming any part of a dwelling, and may remain there long enough to seize, secure and inventory the goods seized.

§ 331. **On bulky articles.**—When personal property, by reason of its bulk or other cause, cannot be immediately removed, it shall be a sufficient levy thereon if the officer, within three days thereafter, file with the clerk of the town or municipality in

which the same is situated, a certified copy of the execution, and of his return of levy thereon. The clerk shall indorse upon such copy the time of filing, and shall preserve the same, and make an entry in the chattel-mortgage book, showing the names of the parties and the date of filing. He shall receive 25 cents for such service, which shall be paid by the officer and included in his charge.—R. L. 1905, § 4299.

§ 332. **On other personal property.**—Other personal property shall be levied on by leaving a certified copy of the execution and a notice specifying the property levied on, with the person holding the same; or, if a debt, with the debtor; or, if stock or an interest in stock of a corporation, with the president, secretary, treasurer, cashier, or managing agent thereof.—R. L. 1905, § 4300.

§ 333. **Certificate to be furnished officer.**—When the officer, with a writ of attachment or an execution against the defendant, applies to any person mentioned in the preceding section for the purpose of attaching or levying upon property mentioned therein, such person shall furnish him with a certificate showing the description and amount of the property of the judgment debtor held by such person or corporation, the number of rights or shares of such debtor in the stock of the corporation, with any dividend thereon, or the debt owing to the judgment debtor, with any incumbrance upon the property; and, on refusal so to do, such person may be required by the court to attend before it and be examined on oath concerning the same.—R. L. 1905, § 4301.

§ 334. **On pledged or mortgaged chattels.**—When personal property is pledged or mortgaged for the payment of money or the performance of any contract or agreement, the right and interest of the pledgor or mortgagor in such property may be sold on execution against him, and the purchaser shall acquire all his right and interest therein, and be entitled to the possession of such property on complying with the terms and conditions of the pledge or mortgage.—R. L. 1905, § 4302.

§ 335. **On growing crops, etc.**—A levy may be made upon growing grain or grass, and upon any other unharvested crops; but no sale shall be made thereunder until the same is ripe or fit to be harvested; and any levy thereon under an execution issued by a justice of the peace or any court of record shall be continued beyond the return day thereof, if necessary, and its execution may be completed at any time within 30 days after the same is ripe or fit to be harvested.—R. L. 1905, § 4303.

§ 336. **Notice of sale.**—Before the sale of property on execution, notice shall be given as follows:

1. If the sale be of personal property, by giving ten days' posted notice of the time and place thereof.
2. If the sale be of real property, on execution or on judgment by six weeks' posted and published notice of the time and place thereof, describing the property with sufficient certainty to enable a person of common understanding to identify it.

An officer who sells without such notice shall forfeit \$100 to the party aggrieved, in addition to his actual damages; and a person who before the sale or the satisfaction of the execution and without the consent of the parties, takes down or defaces the notice posted, shall forfeit \$50; but the validity of the sale shall not be affected by either act, either as to third persons or parties to the action.—R. L. 1905, § 4304.

§ 337. **Service on judgment debtor.**—At or before the time of posting notice of sale, the officer shall serve a copy of the execution and inventory, and of such notice, upon the judgment debtor, if he be a resident of the county, in the manner required by law for the service of a summons in civil action.—R. L. 1905, § 4305.

§ 338. **Sale, when and how.**—The sale shall be by auction, between 9 o'clock in the morning and sunset, in the county where the property, or some part thereof, is situated. If the sale is of personal property, capable of manual delivery, it shall be within view of those who attend, and shall be sold in such parcels as are likely to bring the highest price. If of real property consisting of several known parcels, the parcels shall be sold separately; and if a portion thereof is claimed by a third person who requires it to be sold separately, it shall be so sold. No more shall be sold than is sufficient to satisfy the execution and neither the officer nor his deputy may purchase.—R. L. 1905, § 4306.

§ 339. **Sale of corporate stock, etc.**—In case of the sale of any rights or shares in the stock of a corporation, the sheriff shall execute to the purchaser a certificate of such sale, which shall transfer to him all the rights of the judgment debtor in respect thereto.—R. L. 1905, § 4307.

§ 340. **Property exempt.**—No property hereinafter mentioned shall be liable to attachment, or sale on any final process, issued from any court:

1. The family Bible.
2. Family pictures, schoolbooks or library, and musical instruments for the use of the family.
3. A seat or pew in any house or place of public worship.
4. A lot in any burial ground.
5. All wearing apparel of the debtor and his family; all beds, bedsteads, and bedding kept and used by the debtor and his family; all stoves and appendages put up or kept for the use of the debtor and his family; all cooking utensils; and all other household furniture not herein enumerated, not exceeding \$500 in value.
6. Three cows, ten swine, one yoke of oxen and a horse, or, in lieu of such oxen and horse, a span of horses or mules, twenty sheep, and the wool from the same, either in raw material or manufactured into yarn or cloth; food for all the stock above mentioned necessary for one year's support, either provided or growing, or both, as the debtor may choose; one wagon, cart, or

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dray, one sleigh, two plows, one drag; and other farming utensils, including tackle for teams, not exceeding \$300 in value.

7. Provisions for the debtor and his family necessary for one year's support, either provided or growing, or both, and fuel necessary for one year.

8. The tools and instruments of a mechanic, miner, or other person, used and kept for the purpose of carrying on his trade; and, in addition thereto, stock in trade, including goods manufactured in whole or in part by him, not exceeding \$400 in value; and the library and implements of a professional man.

9. The presses, stones, type, cases, and other tools and implements used by any person or copartnership in printing or publishing a newspaper, or by any person hired by him to use them, not exceeding \$2,000 in value, together with stock in trade not exceeding \$400 in value.

10. One watch, one sewing machine, one typewriting machine, and one bicycle.

11. Necessary seed for the actual personal use of the debtor for one season, not to exceed in any case the following amounts: one hundred bushels of wheat, one hundred bushels of barley, one hundred bushels of potatoes, one hundred bushels of oats, one hundred bushels of flax, ten bushels of corn, and binding material sufficient for use in harvesting the crop raised from such seed.

12. The library and philosophical and chemical or other apparatus belonging to, and used for the instruction of youth in any university, college, seminary of learning, or school which is indiscriminately open to the public.

13. All moneys arising from fire or other insurance upon any property exempt from sale on execution.

14. All moneys received by, or payable to, a surviving wife or child from insurance upon the life of a deceased husband or father, not exceeding \$10,000.

15. All moneys, relief, or other benefits payable or to be rendered by any police department association, fire department association, beneficiary association, or fraternal benefit association to any person entitled to assistance therefrom, or to any certificate holder thereof or beneficiary under any such certificate.

16. The wages of any person, not exceeding \$25, due for any services rendered by him for another during 30 days preceding any attachment, garnishment, or the levy of any execution against him.

17. The earnings of the minor child of any debtor or the proceeds thereof, by reason of any liability of such debtor not contracted for the special benefit of such minor child.

18. The claim for damages recoverable by any person by reason of a levy upon or sale under execution of his exempt personal property, or by reason of the wrongful taking or detention of such property by any person, and any judgment recovered for such damages.

All articles exempted by this section shall be selected by the debtor, his agent, or legal representative. The exemptions provided for in subdivisions 6-18 hereof shall extend only to debtors having an actual residence in the state. No property exempted hereby shall be exempt from attachment or execution in an action for the recovery of the purchase money of the same property.—R. L. 1905, § 4317, as amended G. L. 1909, Chap. 12.

§ 341. **Dwelling place exempt—Exceptions.**—The house owned and occupied by a debtor as his dwelling place, together with the land upon which it is situated to the amount hereinafter limited and defined, shall constitute the homestead of such debtor and his family, and shall be exempt from seizure or sale under legal process on account of any debt not lawfully charged thereon in writing, except such as are incurred for work or materials furnished in the construction, repair, or improvement of such homestead, or for services performed by laborers or servants.—R. L. 1905, § 3452.

§ 342. **Homestead exemptions.**—Such homestead may include any quantity of land not exceeding eighty acres, and not included in the laid out or platted portion of any incorporated city, village or borough. If it be within the laid out or platted portion of such incorporated place having five thousand inhabitants or over, its area shall not exceed one-third of an acre, and if it be within the laid out or platted portion of such incorporated place containing fewer than five thousand inhabitants, the area so exempted shall not exceed one-half of an acre.—R. L. 1905, § 3453, as amended, G. L. 1907, Chap. 335.

§ 343. **Existing exemption not affected by changes.**—As against debts which are not a lien upon such property the area of the homestead shall not be reduced or enlarged by reason of any change in the population of the place in which it is situated, by extending the limits of an incorporated place so as to include the same, or by the platting of surrounding or adjoining lands or the vacation of existing plats. And as against debts contracted prior to the taking effect of the Revised Laws, the homestead exemptions then established shall be neither enlarged nor diminished by the provisions of this chapter.—R. L. 1905, § 3454.

§ 344. **Title may be in husband or wife—Equitable title exempt.**—If the debtor be married the homestead title may be vested in either spouse, and the exemption shall extend to the debts of either or both. Any interest in the land, whether legal or equitable, shall constitute ownership, within the meaning of this chapter, and the dwelling house so owned and occupied shall be exempt, though situated on the land of another.—R. L. 1905, § 3455.

§ 345. **No alienation without consent of spouse—Exceptions.**—Such homestead exemption shall not extend to any mortgage lawfully obtained thereon, to any valid lien for taxes or assessments, or to any charge arising under the laws relating to labor-

ers or materialmen's liens. But if the owner be married, no mortgage of the homestead except for purchase money unpaid thereon, nor any sale or other alienation thereof, shall be valid without the signatures of both husband and wife.—R. L. 1905, § 3456.

§ 346. **Exemption not lost by death or desertion.**—If the owner shall die leaving a spouse or minor children constituting his family surviving, the homestead exemption shall not be affected by such death. And if a husband shall abscond, or otherwise desert his family, his wife and the minor children comprising such family may retain the homestead, with all the rights of owners therein. But they shall not have power to sell or mortgage the same, except in cases expressly provided for by law.—R. L. 1905, § 3457.

§ 347. **Sale or removal permitted—Notice.**—The owner may sell and convey the homestead without subjecting it, or the proceeds of such sale for the period of one year after sale, to any judgment or debt from which it was exempt in his hands. And he may remove therefrom without affecting such exemption, if he do not thereby abandon the same as his place of abode. But if he shall cease to occupy such homestead for more than six consecutive months he shall be deemed to have abandoned the same unless, within such period, he shall file with the register of deeds of the county in which it is situated a notice, executed, witnessed, and acknowledged as in the case of a deed, describing the premises and claiming the same as his homestead. But in no case shall the exemption continue more than five years after such filing, unless during some part of said term the premises shall have been occupied as the actual dwelling place of the debtor or his family.—R. L. 1905, § 3458.

§ 348. **Levy on property in excess of exemption.**—When the officer holding an execution is of the opinion that the judgment debtor has more property of the classes specified in the preceding section than is exempt, he may levy upon the whole of any one class, and make an inventory thereof, and cause the same to be appraised on oath by two disinterested persons. If such appraisal exceeds the amount exempt of that class, the debtor may forthwith select of such property an amount not exceeding in appraisal value the amount exempt, and the balance shall be applied by the officer as in other cases. If the debtor does not make such selection, the officer may make the same. If one or more indivisible articles of such class is of greater value than the whole amount exempt of that class, the officer shall sell the same, and, after paying to the debtor the amount thereof exempt, shall apply the residue in discharge of the process.—R. L. 1905, § 4318.

Note—The last 23 sections are taken from the law applicable to enforcement of judgments by executions in District Courts. The sections covering exemptions, however, are of universal application, and the other sections apply so far as they do not conflict with the specific laws of Justice's Courts on the same subjects. The law governing Justice Courts is not complete in that chapter, and District Court practice obtains in such cases when not in conflict with Justice Court law. See Revised Laws, 1905, § 3885 (§ 40.)

CHAPTER VIII.—REPLEVIN.

§ 349. **Affidavit.**—When the object of the action is to recover the possession of personal property, the plaintiff, or some other person, shall, before the writ is issued, make and file with the justice an affidavit stating that the property (describing it) is wrongfully detained by the defendant, that the plaintiff is entitled to the immediate possession thereof, that it was not taken from him by any process legally and properly issued against him, or, if so taken, that it was exempt from seizure on such process. It shall also state the value of the property, according to the best knowledge and belief of the affiant.—R. L. 1905, § 3959.

§ 350. **Requisites of affidavit.**—To maintain this action the plaintiff must first show that he is either the owner or entitled to the immediate possession of the property. The wrongful detention is the gist of the action, and where the original taking was lawful, a demand and refusal before suit brought is necessary to maintain it; but not where the original taking was unlawful. The justice will have no jurisdiction to issue the writ if the value of the property as sworn to exceeds \$100; neither will he where the value of the property and the amount of damages claimed, taken together, exceed \$100. The total amount in controversy must not exceed \$100.

§ 351. **Bond.**—The plaintiff shall also execute a bond to the defendant, to be approved by the justice, in an amount at least double the value of the property sought, as appears by the affidavit filed, conditioned that he will appear on the return day of the writ and prosecute his action to judgment, and return the property to the defendant if a return thereof is ordered by the court, and also pay all costs and damages that may be adjudged against him. The bond shall be filed with the justice for the use of any person injured by the proceedings, and an action may be maintained thereon to recover the amount of any judgment rendered, on dismissal of the action for want of jurisdiction or any other cause, or for failure to abide by any such judgment, or to return the property when ordered by the court upon such dismissal.—R. L. 1905, § 3960.

§ 352. **Writ—When returnable.**—Upon the approval and filing of such bond by the justice, he shall issue a writ, directed to the sheriff or any constable of the county in which the action is brought, commanding him to take the property described therein and deliver the same to the plaintiff, and to summon the defendant to appear and answer the same on the return day of the writ. Such writ shall be returnable not less than six nor more than twelve days from its date, and served not less than six days prior to the return day thereof.—R. L. 1905, § 3961.

The property must be so specifically described in the writ that the officer can identify it and take the identical property and deliver it to the plaintiff.

§ 353. Taking property—Service of writ.—The officer receiving such writ shall forthwith take possession of the property mentioned therein, if the same is in the possession of the defendant or his agent, for which purpose he may break open any dwelling house or other inclosure, having first demanded entrance and exhibited his authority, if required, and also serve the writ upon the defendant, if he can be found in the same manner as a summons in justice court.—R. L. 1905, § 3962.

§ 354. Return of property to defendant—Bond.—The defendant, or any one or more of several defendants, may require the return of the property at any time within two days after the service of the writ, upon executing to the plaintiff a bond in the same amount as the bond of the plaintiff, with sufficient sureties, approved by the justice, conditioned that the property shall be delivered to the plaintiff, if delivery be adjudged, and for the payment by such defendant of all damages and costs adjudged against him in the action. Upon the approval of such bond, the officer shall deliver the property to the defendant. If such return of the property is not required, the same shall be delivered to the plaintiff.—R. L. 1905, § 3963.

§ 355. Claimant made codefendant.—Immediately after the delivery of the property to the party entitled thereto, the officer shall return the writ, and state fully in his return in what manner he served and executed the same. If a third party claims the property, he shall be made a codefendant.—R. L. 1905, § 3964.

§ 356. Claimant to be made codefendant.—The claimant may appear before the justice at any time before the trial and be entered on the record as a codefendant and plead or assert his rights and have them determined the same as if he had originally been made defendant therein.

§ 357. Measure of damages.—The ordinary measure of damages for unlawfully taking and detaining personal property is the value of the property with interest from the time of taking. The value of the use of the property during its wrongful detention may be shown and considered as special damages, but such damages must be specially pleaded. In an action of replevin, in the absence of fraud, malice, negligence, or of oppression, or of special damages, the measure of defendant's damage is the value of the property at the time it was taken, with interest on that sum up to the time of the trial. In all cases the justice (or jury) must find: 1, for the plaintiff, or defendant: 2, the value of the property: 3, the damages, if any, for the detention, or taking and withholding the property: then judgment can be rendered according to the statute as the facts in the case appear.

§ 358. Claim of property by third person.—If any property levied upon or taken by a sheriff by virtue of an execution, writ of attachment, or other process, or in an action of replevin, is claimed by any person other than the defendant or his agent, and such person, his agent or attorney, shall make and serve on the sheriff an affidavit of his title or right to the possession of such

property, stating its value and the ground of such title or right, the sheriff may release such levy or taking unless the plaintiff, on demand, shall indemnify him against such claim by a sufficient bond in a penal sum of at least double the value alleged in such affidavit. No claim by any person, other than the defendant or his agent, shall be valid against the sheriff unless so made, and he may retain the property for a reasonable time after such claim to obtain such indemnity.—R. L. 1905, § 4213.

§ 359. Plaintiff and sureties first liable in action for taking.—If the person claiming under the preceding section shall begin an action against the sheriff for the taking of such property, the plaintiff in such process or action and the sureties on the indemnity bond so given shall be impleaded in the action with the sheriff, on his motion; and, if judgment be rendered against him and his codefendants in such action, execution thereon shall issue forthwith, and the property of such codefendants shall be exhausted before that of the sheriff shall be subject to sale.—R. L. 1905, § 4214.

Sections 358 and 359, above, express the law in district courts on that subject, and so far as applicable, may be used in connection with section 355 in cases coming within them. See § 40.

§ 360. Judgment for return to defendant—Effect.—If the property has been delivered to the plaintiff and the action is dismissed before answer, or the defendant in his answer claims a return thereof, the defendant shall have judgment for the return of the property, and the damages, if any, for the detention or taking and withholding thereof. But such judgment shall not be a bar to another action for the same property or any part thereof.—R. L. 1905, § 3965.

Where judgment is rendered in favor of the defendant when the property has been delivered to the plaintiff, such judgment must be entered in the alternative.

§ 361. Dismissal—Damages—Judgment.—If the plaintiff fails to establish his right to the property, or the action is dismissed, the defendant shall recover such damages and costs as under the circumstances he shows himself entitled to, and, in addition thereto, if the property has been taken from his possession, may have judgment for the return thereof or its value.—R. L. 1905, § 3966.

§ 362. Recovery by plaintiff—Execution.—If the property be not obtained, plaintiff, if he establishes his right thereto, shall recover the value of that right. Whether obtained or not, he shall recover the damages and costs he has sustained in consequence of the illegal detention or taking or withholding thereof, and upon entry of any such judgment the justice, at the expiration of ten days thereafter, if no appeal be taken, shall issue execution for the costs and damages awarded to such plaintiff, together with the amount due plaintiff as the value of the property not obtained, and to which plaintiff is entitled.—R. L. 1905, § 3967.

CHAPTER IX.—ATTACHMENT.

§ 363. **Proceedings by attachment.**—Proceedings by attachment are extraordinary and summary in their character, to be granted only in extreme cases, and the directions of the statute authorizing them should be followed closely in every particular. The affidavit, bond, writ, and the proceedings of the officer thereunder, must strictly comply with the statute. In making an affidavit stating two separate grounds therefor, they must be connected by the words “and,” and not by the word “or.” But an affidavit that the affiant “has good reason to believe” the facts stated as grounds of attachment is sufficient, without that positiveness of statement required in the district court. The classes of property that may be attached, and the mode of procedure by the officer under a writ of attachment, are the same as under an execution (see Executions) except that the defendant is to be summoned to appear and answer to the action the same as in an ordinary action commenced by summons (see Chap. III, Title VI).

§ 364. **When allowed.**—A creditor may proceed against the property of his debtor by attachment, at the commencement or during the pendency of an action, in the cases, upon the conditions, and in the manner provided in this subdivision.—R. L. 1905, § 3968.

§ 365. **Affidavit—Requisites.**—Before a writ of attachment shall be issued, the plaintiff or some person in his behalf shall make and file with the justice an affidavit stating that the defendant is indebted to the plaintiff in a sum exceeding \$5, and specifying the amount of such indebtedness, as near as may be, over and above all legal set-offs, and that the same is due upon contract, express or implied, or upon a judgment or decree of some court, and containing a further statement that the affiant has good reason to believe that the defendant—

1. Is a foreign corporation, or is a domestic corporation, and that all of its officers upon whom a summons may be served are non-residents of the state, or cannot be found therein;

2. Is a non-resident of this state;

3. Has absconded or is about to abscond from the state;

4. Has removed or is about to remove any of his property out of the state, with intent to defraud his creditors;

5. Resides in another county and more than one hundred miles from the residence of the justice;

6. Contracted the debt under fraudulent representations;

7. So conceals himself that the summons cannot be served upon him; or

8. Has fraudulently conveyed or disposed of, or is about to fraudulently convey or dispose of, any of his property or effects, so as to hinder, delay, or defraud his creditors.—R. L. 1905, § 3969.

§ 366. **Writ, when returnable.**—In the first five cases mentioned in the preceding section, the writ shall be returnable in three days. In all other cases it shall be returnable as an ordinary summons.—R. L. 1905, § 3970.

§ 367. **Mode of service.**—The mode of computing time of service of attachments is the same as in the service of a summons. Also, the mode of summoning the defendant personally is the same as in the case of an ordinary summons (see § 90). Personal property capable of manual delivery to the officers must be attached by taking it into his custody. When an attachment is made of bulky articles that cannot be immediately removed, a certified copy of the writ and return (including a full inventory of the property levied on) must be filed with the clerk or recorder of the city, village or town where the articles are. He must also serve a certified copy of the writ of attachment and inventory upon the defendant, if he can be found within the county; and if he is a resident thereof, but cannot be found therein, the officer must leave such copy at the last usual place of abode of the defendant.

§ 368. **Mode of service.**—The kind of goods which may be taken by the officer, the property exempt from levy and sale, the exceptions in favor of purchase money, what amounts to a valid levy, the power of the constable in forcibly entering buildings to effect a levy, are all governed by the same rules as laid down under the subject of executions. On taking the goods the officer is at his peril to see that they are safely kept, and he is accountable to either party for ordinary negligence by which either sustains any injury. If he leaves the property with the defendant it will be at his own risk, unless the plaintiff assents to the same. So it is better to cause the property attached to be removed, or to be put in the possession of some responsible person other than the defendant, and take his receipt for the same.

§ 369. **Mode of service.**—He must make a full inventory of the property attached, and return the same with the writ of attachment. As the return of the officer is conclusive of the facts of service, as stated therein, it ought to be full and complete in every particular, as the subsequent proceedings depend largely upon it. The return should specify the particular manner in which the writ was executed, the day of levy and of serving the copy; if the defendant cannot be found, that should be stated; also, that a certified copy of the writ and inventory was left at the last usual place of abode of the defendant with some person of suitable age and discretion then resident therein. If he cannot be found in the state, or if he keeps himself concealed therein to avoid the service of legal process, or if he has attached de-

defendant's goods but defendant cannot be found in the county, either of these facts should be specifically certified to.

§ 370. **Bond.**—Before issuing the writ, the justice shall require a bond on the part of the plaintiff, conditioned that, if he fails to recover judgment, the plaintiff will pay all costs that may be adjudged against him, and all damages that the defendant may sustain by reason of the attachment, not exceeding \$100.—R. L. 1905, § 3971.

§ 371. **Writ, how executed.**—The officer shall execute the writ by attaching the personal property of the defendant not exempt by law, and by serving upon him, in the manner required in the case of a summons, a copy of the writ, with a certified inventory of the property attached, and shall make due return of his doings thereunder.—R. L. 1905, § 3972.

§ 372. **Where defendant resides in another county.**—Whenever it shall appear from the return of the officer that he has attached property in his county, but that the defendant cannot be found therein, and it shall be made to appear by affidavit that defendant resides in another county in this state, the action shall be continued for a period not exceeding twenty days, and the summons shall be served in the same manner as a district court summons.—R. L. 1905, § 3973.

§ 373. **Service by publication.**—Whenever it shall appear by the return of the officer upon a writ of attachment that he has attached property thereunder, and it shall further appear to the satisfaction of the justice from said return of the affidavit for attachment filed in the action that the defendant is a non-resident or cannot be found in the state, or that he keeps himself concealed therein to avoid the service of legal process, the justice may order that service of the summons be made by publication, as in this chapter prescribed. Upon making such order, the justice shall adjourn the action to the time when such summons is made returnable.—R. L. 1905, § 3974.

§ 374. **Service of summons.**—In the district court a summons is served by the sheriff of the county where the defendant is found, or by any other person not a party to the action, by delivering a copy thereof to the defendant personally, or by leaving a copy at the house of his usual abode with some person of suitable age (at least fourteen years old) and discretion then resident therein. So that in the service of the summons mentioned in the last section the same statute must be observed.

§ 375. **Forthcoming bond.**—Whenever property of the defendant is attached, the defendant, or any other person in his behalf, may obtain possession thereof by giving a bond, with sureties to the satisfaction of the officer executing the writ, in double the value of the property attached, conditioned that the same shall be forthcoming when and where the justice shall direct, and shall abide the judgment of the justice; and the prop-

erty of the defendant attached in the possession of any other person may be retained by such person upon giving bond with like sureties and conditions.—R. L. 1905, § 3975.

§ 376. **Perishable property.**—When property which is likely to perish or depreciate in value before the probable end of the action, or the keeping of which would be attended with much loss or expense, is seized on attachment, the justice may order the same to be sold by the officer in the same manner and upon the same notice as is required in the case of goods sold on execution; and the proceeds of such sale shall remain in the hands of the officer, subject to be disposed of as the property would have been, had it remained unsold.—R. L. 1905, § 3976.

§ 377. **Compensation of officer.**—The justice may allow the officer having charge of property seized on attachment reasonable compensation for his trouble and expense in keeping the same.—R. L. 1905, § 3977.

§ 378. **Procedure.**—Like pleadings and proceedings shall be had, as far as practicable, in actions begun by attachment, and actions founded on contract commenced by summons.—R. L. 1905, § 3978.

§ 379. **Dissolution.**—An attachment may be dissolved on motion at any time before final judgment if the defendant appears and pleads to the action and gives bond to the plaintiff, with sufficient surety, approved by the justice, in double the amount claimed in the writ or complaint, conditioned that, if judgment is rendered against him, he will pay the same, with costs and interest. On such dissolution the property attached shall be released, and the action proceed as if commenced by summons only.—R. L. 1905, § 3979.

§ 380. **Sale on execution.**—When judgment is rendered in an action begun by attachment, execution may issue thereon, and the property attached may be sold in the same manner as in other cases, except as otherwise provided in this chapter.—R. L. 1905, § 3980.

§ 381. **Same—Personal property.**—When an attachment of personal property has been made by filing a copy of the writ with any public official, its discharge shall be effected by filing in the same office any instrument of release mentioned in the preceding section.—R. L. 1905, § 4226.

Section 381 is taken from the law applicable to district courts. It may be applied to justice courts in cases coming within that section. See § 40 of this Manual.

CHAPTER X.—GARNISHMENT.

§ 382. **Jurisdiction in garnishment.**—To give a justice jurisdiction of proceedings by garnishment, two things are necessary:

First—That an action has been commenced for the recovery of money to the amount of ten dollars or more, or that a judgment in such action to the amount of ten dollars or more has been rendered in favor of the party commencing such garnishee proceedings;

Second—That the proper affidavit has been filed. The affidavit should distinctly specify the grounds thereof, whether on account of indebtedness to defendant, or having property, money or effects of defendant in his hands or under his control. It will not do to couple both grounds together by the word “or,” but if both grounds exist, they must be stated. But if one ground only is distinctly stated, the garnishee may be examined on both grounds. The making or filing of this proper affidavit is necessary to give the court jurisdiction to issue the summons and proceed in the cause; but if an insufficient affidavit is filed and the garnishee appears and answers without objection, he is deemed to have waived all objections. He may, however, raise such objections at any time before judgment, even after the disclosure has been taken, but such objections must be made by the garnishee and cannot be raised by the defendant.

§ 383. **Affidavit—Garnishee summons—Title of action.**—In an action in a court of record or justice court for the recovery of money, if the plaintiff, his agent or attorney, at the time of issuing the summons, or at any time during the pendency of the action, or after judgment therein against the defendant, files with the clerk of the court, or, if the action is in a justice court, with the justice, an affidavit stating that he believes that any person (naming him) has property or money in his hands or under his control belonging to the defendant, or that such person is indebted to the defendant, and that the value of such property or the amount of such money or indebtedness exceeds \$25, if the action is in the district court, or \$10 if in a justice court, a summons may be issued against such person, as hereinafter provided, in which summons and all subsequent proceedings in the action the plaintiff and defendant shall be so designated, and the person against whom such summons issues shall be designated as garnishee.—R. L. 1905, § 4229.

§ 384. **Proceedings in justice court.**—If the action is in a justice court, the summons shall be issued by the justice, and shall require the garnishee to appear before him at a time and place specified therein, not less than six nor more than twelve

days from the date thereof, to answer under oath such questions as may be put to him touching his indebtedness to the defendant, and any property or money of the defendant in his possession or under his control, which summons shall be served and returned in the same manner as a summons against a defendant, except that the service must be personal. A copy of such summons, together with a notice to the defendant stating the time, place, and manner of service upon the garnishee, and signed by the justice or the officer who served the same, and requiring the defendant to appear and take part in the examination, shall be served upon the defendant at least three days before the time specified in the summons for the appearance of the garnishee.—R. L. 1905, § 4230.

§ 385. **In district court.**—In actions in the district court such summons may be issued by the plaintiff or his attorney in the action, and shall be served and returned in the same manner as a summons issued against a defendant, except that the service shall be personal. It shall require the garnishee to appear before the court in which the action is pending, or the judge or clerk thereof, or a court commissioner of the county in which the action is pending, at a time and place specified therein, not less than 20 days from the service thereof, and answer touching his indebtedness to the defendant, and any property or money of the defendant in his possession or under his control. A copy of the summons, together with a notice to the defendant stating the time, place, and manner of service thereof upon the garnishee, signed by the plaintiff or his attorney, or the person or officer who served the summons upon the garnishee, and requiring the defendant to appear and take part in such examination, shall be served upon the defendant at least 10 days before the time specified in the summons for the appearance of the garnishee. Such notice and copy of the summons may be served in the same manner as a summons in ordinary cases.—R. L. 1905, § 4231.

§ 386. **Effect of service on garnishee—Fees.**—The service of the summons upon the garnishee shall attach and bind all the property and money in his hands or under his control belonging to the defendant, and all indebtedness owing by him to the defendant at the date of such service, to respond to final judgment in the action. He may be compelled to disclose under oath respecting all matters contained in the affidavit: Provided, that no person shall be obliged to appear as garnishee unless the fees for one day's attendance and mileage allowed by law be paid or tendered in advance.—R. L. 1905, § 4232.

§ 387. **Service of garnishee summons.**—The garnishee summons may run into and be served on the garnishee in any county in the state.—R. L. 1905, § 3882, (§ 33). The garnishee summons is served like any other summons served personally, whether upon a natural person or a private corporation, but it must in all cases be a personal service. The notice and copy of summons may be

served like a summons in ordinary cases, and even by publication, when necessary.

§ 388. **Property subject to garnishment.**—All moneys and other personal property, including such property of any kind due from or in the hands of an executor or administrator, and all written evidences of indebtedness, whether negotiable or not, or under or over due, may be attached by garnishment; and money or any other thing due or belonging to the defendant may be attached by this process before it has become payable, if its payment or delivery does not depend upon any contingency; but the garnishee shall not be compelled to pay or deliver the same before the time appointed by the contract.—R. L. 1905, § 4233.

§ 389. **In what cases garnishment not allowed.**—No person or corporation shall be adjudged a garnishee in any of the following cases:

1. By reason of any money or other thing due to the defendant, unless at the time of the service of the summons the same is due absolutely and without depending on any contingency.

2. By reason of any debt due from such garnishee on a judgment, so long as he is liable to an execution thereon.

3. By reason of any liability incurred, as maker or otherwise, upon any draft, bill of exchange, or promissory note.—R. L. 1905, § 4234.

§ 390. **Examination of garnishee.**—Upon its appearance before the court or officer named in the summons, at the time specified therein or to which an adjournment may be had, and the filing of proof of the service upon the defendant of such summons and notice, the garnishee shall be examined on oath touching the matters alleged in the affidavit and full minutes of the examination shall be taken by the examining officer and filed with the clerk. If the defendant does not appear at the time and place specified in the summons for the appearance of the garnishee, and it appears that the plaintiff has been unable to notify him, the examining officer may postpone the examination for such reasonable time as may be necessary for that purpose, and thereupon service of such summons and notice, together with notice of the time to which the examination is postponed, shall be served upon defendant, at least ten days if in the district court, and three days if in justice court, before the day to which the examination is postponed: Provided, that if the plaintiff, his agent or attorney, files with the examining officer an affidavit that the defendant is not a resident of this state, and is not within the same as affiant verily believes, the examination shall proceed as if the summons and notice had been served upon defendant or he had duly appeared.—R. L. 1905, § 4235.

§ 391. **Garnishment of corporations.**—A corporation may be garnisheed, and may appear by its cashier, treasurer, or such other officer or person as it shall appoint, and the disclosure of such officer or person shall be considered the disclosure of the

corporation; but if it appears to the court that some other person connected with the corporation is better acquainted with the subject-matter than the one making the disclosure, such person may be cited to appear and answer in the proceeding, and, if he shall neglect or refuse to attend, judgment may be entered as herein-after provided upon default. Service upon an agent of a foreign corporation doing business in this state shall be service upon such corporation.—R. L. 1905, § 4236.

§ 392. **Same—Municipal corporations, etc.—Procedure.**—The salary or wages of any officer of, or person employed by, a county, town, city, village, or school district, or by any department thereof, shall be liable to garnishment, attachment, and execution, except as exempted by law. In the case of such officer, the garnishee summons, writ of attachment, or execution shall be served upon the auditor, treasurer, or clerk of such body, or department thereof, of which he is an officer; and in other cases such process shall be served upon the officer in whose office, or the head of the department in which, or the presiding officer of the body by which, such person is employed; and the disclosure in a case of garnishment, or the certificate, in case of execution, shall be made by the officer or person so served, or by some person having knowledge of the facts designated by him: Provided, that when the garnishee summons is returnable elsewhere than in the town, city or village where such officer resides, or in which his office is located or his duties are usually performed, he shall not be required to appear at the time and place therein specified, but, upon application of the plaintiff, the court of justice shall by order appoint a referee to take the disclosure at a time and place therein specified, within such town, city, or village, upon six days' written notice to the garnishee and to the defendant. If the plaintiff, his agent or attorney, files with the referee an affidavit that the defendant is not a resident of this state and cannot be found therein, as affiant verily believes, the examination may proceed without notice to the defendant. When payment is made by such debtor pursuant to a judgment against him as garnishee, or upon levy of execution, a certified copy of the judgment or execution with a certificate of satisfaction to the extent of such payment endorsed thereon, shall be delivered to the treasurer of the debtor as his voucher for such payment.—R. L. 1905, § 4237.

§ 393. **Proceedings in garnishment.**—A person summoned as garnishee should appear and raise such objections to the proceedings as he sees fit and disclose his indebtedness to the defendant, or as to any property, money or effects of defendant in his possession or under his control. The examination is conducted orally, on oath, and the justice must take full minutes of such examination. The party calling him, however, takes his answer at his own risk and is bound by it, and, as in other cases, cannot contradict his own witness, but other evidence may be received for

the purpose of corroborating or explaining the testimony of the garnishee, or of developing facts additional to those disclosed by him.

§ 394. **When property garnished exceeds claim.**—Whenever it appears that the property garnished is more than sufficient to pay the amount claimed in the complaint, and the probable interest and costs which may accrue to the plaintiff, the court, upon motion, may make an order releasing such excess from the garnishment.—R. L. 1905, § 4238.

§ 395. **Claimant of property to be joined.**—If it appear from the evidence, or otherwise, that any person not a party to the action has or claims an interest in any of the garnished property antedating the garnishment, the examining officer may permit such person to appear in the action and maintain his right; and if he do not so appear, may direct that he be notified to appear or be barred of his claim. The notice in such case may be served in any manner that such officer shall direct, and the person so appearing or notified shall be joined as a party to the action and be bound by the judgment.—R. L. 1905, § 4239.

§ 396. **Proceedings when debt or title is disputed.**—If the garnishee hold the garnished property by a title that is void as to defendant's creditors, he may be charged therefor although the defendant could not have maintained an action against him therefor; but in this, and in all other cases where the garnishee, upon full disclosure, denies his liability as such, the plaintiff may move the court at any time before the garnishee is discharged, on notice to both the defendant and garnishee, for leave to file a supplemental complaint making the latter a party to the action, and setting forth the facts upon which he claims to charge him; and, if probable cause is shown, such motion shall be granted. The supplemental complaint shall be served upon both defendant and garnishee, either or both of whom may answer, and the plaintiff may reply. The issues thus made up shall be brought to trial and tried as in other actions.—R. L. 1905, § 4240.

§ 397. **Judgment against garnishee—Default.**—When any person duly summoned as garnishee neglects to appear at the time specified in the summons, or within two hours thereafter, he shall be defaulted, and a judgment payable in money shall be rendered against him for the amount of damages and costs recovered by the plaintiff in the action against the defendant, and execution may issue therefor directly against the property of such garnishee; but the court, upon good cause shown, may remove such default, and permit the garnishee to appear and answer on such terms as may be just.—R. L. 1905, § 4241.

§ 398. **Same, when rendered—Discharge—Transfer of action.**—No judgment shall be rendered against a garnishee until after judgment is rendered against the defendant; but a garnishee may be discharged after disclosure, if it appears that he ought not to be held. Whenever he is not so discharged, the cause shall be con-

tinued to abide the result in the original action; and in case any such original action, pending in a court not of record, shall be transferred under the provisions of law to any other court except by appeal, any garnishee action, the judgment in which is conditioned on the judgment in said original action, shall be transferred therewith, and written notice of such transfer, specifying the court to which the same is made and the time, which shall not be less than two days after service of the notice, when such garnishee action will be heard, shall be served by the plaintiff on the garnishee. Such transfer shall carry with it all proceedings already had and any disclosure made therein.—R. L. 1905, § 4242.

§ 399. Judgment in garnishment.—The facts and not the conclusions of the garnishee, must govern the justice's judgment; and although the garnishee denies any indebtedness, yet if the facts which he discloses clearly show that he owes a debt subject to garnishment, or, if the garnishee expresses an opinion that he has no property, money or effects of defendant in his possession or control, and his disclosure develops facts showing his opinion to be incorrect, in either case judgment should go against him. But if the examination discloses an indebtedness for laborers' wages not exceeding \$25; or that he has property of defendant in his hands, but that it is exempt from attachment, and the defendant asserts his exemption; or that the indebtedness, or the value of the property in possession, does not exceed \$10; or the facts sworn to by the garnishee leave the mind in doubt whether he is indebted or has property, money or effects of defendant in his hands or under his control—he must discharge the garnishee and enter judgment for costs against the plaintiff. Otherwise, the cause must be continued till after judgment is rendered against the defendant, and, if such judgment is to the amount of \$10 or more, then judgment should be rendered against the garnishee therein. The costs of the garnishee suit, however, must not exceed the amount of judgment, exclusive of costs rendered in the principal suit. (See § 340, Subdivision 16.)

§ 400. Proceedings when venue is changed.—In case of a change of venue, in an action in the district court, before the garnishee has fully disclosed, the disclosure may be taken or completed regardless of such change, unless the defendant at whose instance the change was made shall otherwise require. If the change be ordered by the court, the order, upon request of the moving defendant, shall direct when, where, and before whom the examination shall proceed; otherwise the defendant shall serve, with his demand, written notice of such time and place, and of the court or officer before whom the examination will proceed. If such notice be not given and filed, the clerk shall retain all papers relating to the garnishment until the disclosure is completed. The place of disclosure, when changed, shall be within the county to which the action is transferred, unless the parties other-

wise agree, and the time thereof not more than ten days later than that previously fixed; and the plaintiff shall pay to the garnishee additional mileage if the distance be increased.—R. L. 1905, § 4243.

§ 401. **Who may take disclosure.**—Court commissioners, clerks of the district court, and referees appointed by the court for that purpose, are authorized and required to take the disclosure of any garnishee, together with any other testimony offered by the parties to the action, and report the same to the court. All testimony shall be taken subject to any seasonable objection thereto. Any examining officer, other than the judge, shall receive from the plaintiff 10 cents a folio for taking the disclosure, and the fee so paid may be taxed in the judgment against the garnishee. No judgment shall be rendered against the garnishee unless ordered by the court.—R. L. 1905, § 4244.

§ 402. **Disclosure before return day.**—When any person is summoned as a garnishee in the district court, he may appear before the officer named in the summons at any time before the return day thereof, and with the consent of the plaintiff, to be certified by such officer, make his disclosure with like effect as if made at the time specified in the summons. If the plaintiff will not consent to such disclosure, the garnishee, in case he is compelled to be absent from the county until after the return day of the summons, may make affidavit to that effect, which, with a notice of the time and place of making his disclosure before the same officer, he shall serve on the plaintiff or his attorney at least 24 hours before the time therein fixed for taking the same. On proof of such service, his disclosure shall be taken as hereinbefore provided, and with like effect.—R. L. 1905, § 4245.

§ 403. **Amount of judgment—Effect.**—Judgment against a garnishee shall be rendered, if at all, for the amount due the defendant, or so much thereof as may be necessary to satisfy the plaintiff's judgment against such defendant, with costs taxed and allowed in the proceeding against the garnishee. Such judgment shall acquit and discharge the garnishee from all claims of all the parties to the process in and to the property or money paid, delivered, or accounted for by such garnishee by force of such judgment.—R. L. 1905, § 4246.

§ 404. **Duty and rights of garnishee.**—When any person is charged as garnishee by reason of any property in his possession, other than an indebtedness payable in money, he shall deliver the same, or so much thereof as may be necessary, to the officer holding the execution, and such property shall be sold and the proceeds accounted for in the same manner as if it had been taken on execution against the defendant; but the garnishee shall not be compelled to deliver any specific articles at any other time or place than as stipulated in the contract between him and the defendant.—R. L. 1905, § 4247.

§ 405. **Court may determine value, make orders, etc.**—Upon application of any party in interest, on notice, the court may determine the value of any property so in the hands of the garnishee for delivery, and may make any order relative to the keeping, delivery, and sale thereof, or touching any of the property attached, that is necessary to protect the rights of those interested, and at any time after the service of the garnishee summons may require the property or money so attached to be brought into court or delivered to a receiver by it appointed.—R. L. 1905, § 4248.

§ 406. **Proceedings when garnishee has lien.**—If it appear that the garnishee has a lien on such garnished property, or that it is in any way liable for the payment of a debt due to him, the plaintiff, on motion, may be permitted to pay the amount thereof, and the amount so paid shall be repaid to plaintiff, with interest, out of the proceeds of the sale of such property. If the garnishee refuses or neglects to comply with any order of the court in the premises, he may be punished for a contempt, and also shall be liable to the plaintiff for the value of such property, less the amount of his lien: Provided, that he may sell the property to satisfy such lien, if a sale be authorized by his contract, at any time before such payment or tender.—R. L. 1905, § 4249.

§ 407. **Garnishee not liable for destruction.**—If any such garnished property be destroyed without negligence of the garnishee, after judgment and before demand by the officer holding the execution, the garnishee shall be discharged from all liability to the plaintiff for the non-delivery thereof.—R. L. 1905, § 4250.

§ 408. **Fees and allowances of garnishee.**—A garnishee who appears and submits himself to examination, as herein provided, shall be allowed his fees and mileage for attendance at the rate allowed by law to a witness, and, in extraordinary cases, such further sum as the court shall deem reasonable for his counsel fees and other necessary expenses. If he be charged as a garnishee, the amount of such allowances may be retained out of the property in his hands, and, if charged on account of specific articles of personal property, he shall not be required to deliver the same to the officer until payment thereof; and, if he be not held as a garnishee, he may recover judgment therefor against the plaintiff.—R. L. 1905, § 4251.

§ 409. **Plaintiff's costs limited.**—Except when the garnishee fails to appear, the plaintiff shall in no case recover a greater sum for costs, including fees and costs allowed the garnishee, than the amount of damages recovered of the defendant.—R. L. 1905, § 4252.

§ 410. **Minimum judgment in justice and district courts.**—No judgment shall be rendered against a garnishee in a justice court where the judgment against the defendant is less than \$10, exclusive of costs, nor where the indebtedness of the garnishee to the defendant, or the value of the property or money of the

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defendant in the hands of the garnishee or under his control, as proved, is less than \$10. If the action is in the district court, no judgment shall be rendered against the garnishee where the indebtedness proved against him, or the value of the money or property of the defendant in his hands or under his control, is less than \$25; and in all such cases the garnishee shall be discharged, and shall recover his costs, and have execution therefor against the plaintiff.—R. L. 1905, § 4253.

§ 411. **Discharge not a bar.**—If any person summoned as a garnishee is discharged, the judgment shall be no bar to an action brought against him by the defendant or other claimants for the same demand.—R. L. 1905, § 4254.

§ 412. **Garnishment by defendant.**—Whenever the defendant shall recover judgment against the plaintiff, or shall set up in his answer a counterclaim exceeding in amount the sum admitted in such answer to be due to the plaintiff, he may institute and prosecute garnishment proceedings under this subdivision as if he were plaintiff. And for the purposes of such proceedings he shall be considered as plaintiff, and the plaintiff as defendant, and his answer shall be deemed a complaint.—R. L. 1905, § 4255.

§ 413. **Discharge of attachment or garnishment.**—At any time before the entry of judgment, the defendant whose property has been attached or garnished may secure its release by giving a bond, approved by a judge or court commissioner if the action is in the district court, by the judge if in a municipal court, and by the justice if in justice court, in a penal sum at least double the amount claimed in the complaint, or if the value of the property attached or garnished is less than such amount, then in double such value, conditioned to pay any judgment recovered against him in the action, or so much thereof as shall equal such value. The officer approving such bond shall make an order discharging such attachment or garnishment and releasing the property. Such order shall become effective upon filing the same with such bond in the court in which the proceedings are pending, and, in the case of garnishment, serving a copy of the order on the garnishee.—R. L. 1905, § 4256.

§ 414. **Appeals.**—Any party to a garnishment proceeding deeming himself aggrieved by any order or final judgment therein may remove the same from a justice's court to the district court, or from the district court to the Supreme Court, by appeal, in like cases, in the same manner and with like effect as in a civil action.—R. L. 1905, § 4257.

Note to Chap. X.—Garnishment—§ 382 to § 414 inclusive constitute the law on the subject of garnishment, which include both the district court and justice court law. Here again, the justice court law falls short and as the law of the district court applies so far as not in conflict with the other, we have quoted the entire law. See § 40.

CHAPTER XI.—APPEALS.

§ 415. **May be taken, when.**—Any person aggrieved by any judgment rendered by a justice of the peace, when the judgment exceeds \$15, or in an action of replevin when the value of the property, as sworn to in the affidavit, exceeds \$15, or in any case where the amount claimed in the complaint exceeds \$30, may appeal, by himself or agent, to the district court of the county where the same was rendered: Provided, that an appeal on questions of law as herein provided may be taken in any action, without reference to the amount in controversy or the amount of the judgment: and provided, further, that this subdivision shall not apply to actions of forcible entry and detainer.—R. L. 1905, § 3981.

An appeal lies to the district court, from the judgment of a justice of the peace when the amount claimed in the complaint exceeds thirty dollars, even though such judgment does not exceed fifteen dollars, save that an appeal upon questions of law alone may be taken without reference to the amount in controversy or of the judgment.

§ 416. **Requisites.**—No appeal shall be allowed unless the following requisites are complied with within ten days after judgment is rendered:

1. An affidavit shall be filed with the justice before whom the cause was tried, stating that the appeal is made in good faith, and not for the purpose of delay.

2. A bond shall be executed by the party appealing, his agent or attorney, to the adverse party, in a sum sufficient to secure such judgment and costs of appeal, with sufficient surety, to be approved by the justice, conditioned that the appellant shall prosecute his appeal with effect, and abide the order of the court therein.

3. The party appealing shall serve a notice upon the opposite party, his agent or attorney, who appeared for him on the trial, specifying the ground of appeal generally, as follows: That the appeal is taken upon questions of law alone, or upon questions of both law and fact.

Such notice shall be served by delivering a copy thereof to the person upon whom service is made, or by leaving a copy at his residence: and the original notice, with proof of service thereof, shall be filed with the justice who rendered the judgment appealed from, within ten days after such service is made.

4. The party appealing shall pay to the justice his fees for making the return, if demanded by him.—R. L. 1905, § 3982.

§ 417. **The affidavit and bond and notice.**—The affidavit required by statute must be filed with the justice, or the district

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court will not acquire jurisdiction of the action. It should describe the judgment with sufficient certainty, but a mistake in stating the date of the judgment is not fatal. It need not be sworn to before the justice who tried the case, but before any officer authorized to administer oaths.

The bond should be a sufficient bond—one that will cover the judgment and cost of appeal. If taken upon questions of law alone, the costs will generally be but slight. If taken upon questions of fact or of both law and fact, it will be necessarily retried in the district court, and the costs will be much greater. The amount might be from ten dollars to fifty dollars more than the judgment, depending on the kind of appeal taken. Good and sufficient sureties should be required, justifying in double the amount of the bond.

The notice must be a written notice and be signed by the appellant, his agent or attorney, and the service of such a notice is essential to jurisdiction. The service should be made by delivering a copy thereof to the party obtaining the judgment, or the agent or attorney who appeared for him on the trial, or by leaving it at the residence of the person on whom service is to be made. The admission of service of the notice should be indorsed on it, in case such admission is made; otherwise, the party making the service should make his proof by affidavit, stating the time, place and manner of service. Payment of the fees for making the return should be made to the justice, and is an essential condition to the jurisdiction in allowance of the appeal, unless he waives the payment of his fees and makes the return without them.

§ 418. **Allowance—Effect.**—Upon compliance with the foregoing provisions, the justice shall allow the appeal, and make an entry of such allowance in his docket. The allowance of the appeal shall suspend further proceedings before the justice.—R. L. 1905, § 3983.

§ 419. **Return—Evidence, when included.**—Within twenty days after filing the notice of appeal, and before the first day of the next general term of the district court, the justice shall file in the office of the clerk of such court a transcript of all the entries made in his docket, together with all process and other papers relating to the action and filed with the justice; and upon the filing of such return the district court shall become possessed of the action, and shall proceed therein in the same manner, as near as may be, as in actions originally commenced therein, except as in this chapter otherwise provided. Upon an appeal upon questions of law alone, the justice, upon the request of either party, shall return to the district court, as a part of his return on the appeal, a transcript of all the evidence given upon the trial.—R. L. 1905, § 3984.

§ 420. **Justice's return on appeal.**—Great care should be taken to make the justice's return to the district court full and com-

plete, and conformable to the statute in every particular. Very many appeals are dismissed, or amended returns ordered, causing trouble and delay, by reason of a defective return on the part of the justice. If he has kept his docket properly and according to the statute, a full and correct transcript thereof, with all the papers attached, including the appeal papers, numbering and arranging them, for the sake of convenience, in the order in which they have been filed or used in the progress of the cause, and a proper certificate that his fees for the return have been paid, that the appeal was allowed, that the papers annexed to the return are all the papers relating to the action had before him, and that together with the transcript from his docket they contain a full, correct and complete statement of all the proceedings had before him, will constitute a sufficient return if the appeal be upon questions of fact alone, or upon questions of both law and fact. But if the appeal be taken upon questions of law alone, and either party to the suit requests it, the justice must add a true copy of all the evidence given on the trial, to the docket entries. And he will not be excused from giving such evidence on the ground that he kept no notes and remembers nothing by which he can make a return. Anticipating such request, it is a good practice to make brief minutes or memoranda of the evidence at the trial, and from these the justice can always make a complete return, and without such full return of the evidence and objections thereto and the justice's rulings thereon, the district court in many cases cannot decide intelligently in the matter, as the relevancy and materiality of testimony frequently depends upon the testimony previously introduced.

§ 421. **Appeals, how tried—Judgment.**—Upon an appeal upon questions of law alone, the action shall be tried in the district court upon the return of the justice. Upon an appeal upon questions of law and fact, the action shall be tried in the district court in the same manner as though originally commenced therein.—R. L. 1905, § 3985.

§ 422. **Entry on calendar—Effect of omission.**—The appellant shall cause an entry of the appeal to be made by the clerk of the district court upon the calendar for trial, on or before the second day of the term, unless otherwise ordered by said court, and the plaintiff in the justice court shall be the plaintiff in such district court. If the appellant fails or neglects to enter the appeal as aforesaid, the appellee may have the same entered at any time during that or a succeeding term, and the judgment of the court below shall be affirmed, with interest and the costs of both courts: Provided, that it shall not be necessary for either party to notice the appeal for trial, or file a note of issue.—R. L. 1905, § 3986.

§ 423. **Allowance compelled, when.**—If a justice shall fail to allow an appeal when the same ought to have been allowed, the district court, on such fact satisfactorily appearing, may, by at-

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tachment, compel him to allow the same, and to return his proceedings in the action, together with all papers required to be returned therein.—R. L. 1905, § 3987.

§ 424. **Return or amendment compelled, when.**—Upon an appeal being made and allowed, the district court may by attachment compel a return by the justice of the proceedings in the action, and of the papers required by him to be returned, and, whenever satisfied that the return of the justice is essentially erroneous or defective, may, in like manner, compel him to amend the same.—R. L. 1905, § 3988.

§ 425. **Defective bond—Proceedings.**—No appeal allowed by a justice shall be dismissed on account of there being no bond, or of the bond given being defective or insufficient, if the appellant, before the motion to dismiss is determined, shall execute a sufficient bond, approved by the judge of the district court, and pay all costs incurred by reason of such default or omission.—R. L. 1905, § 3989.

§ 426. **Appeal to be tried, when.**—All appeals allowed thirty days before the first day of the term of the district court held next after the appeal is allowed shall be determined at such term, unless continued for cause.—R. L. 1905, § 3990.

§ 427. **Judgment, when affirmed—Against sureties.**—In all cases of appeal from a justice court, the district court shall have power to affirm the judgment upon a dismissal of the appeal for any cause or upon any default of the appellant to appear and prosecute his appeal; and in all cases, if the judgment is against the appellant, the same shall be rendered against him and his sureties in the bond.—R. L. 1905, § 3991.

§ 428. **Enforcement against sureties.**—If upon an execution issued upon such judgment the principal shall not pay the amount thereof, and the officer cannot find sufficient property of said principal to satisfy the same, it shall be enforced against the sureties, and the officer shall specify in his return by whom the money was paid, and the time of payment.—R. L. 1905, § 3992.

§ 429. **Rights of surety paying.**—After a return of the execution satisfied in whole or in part out of the property of the surety, such surety is entitled to a judgment against the principal, on motion, for the amount so paid by him, with interest from the time of payment. Such motion shall be made within one year after the return day of the execution, and the return of the officer shall be evidence of the facts therein stated on the hearing of such motion.—R. L. 1905, § 3993.

§ 430. **Return—Justice out of office.**—Whenever an appeal shall be taken from a judgment after the justice who rendered it has gone out of office, he shall make return of such appeal in like manner and with like effect as if the appeal had been taken while he held such office.—R. L. 1905, § 3994.

CHAPTER XII.—CONTEMPTS.

§ 431. **Direct contempts defined.**—Contempts of court are of two kinds—direct and constructive. Direct contempts are those occurring in the immediate view and presence of the court, and arise from one or more of the following acts:

1. Disorderly, contemptuous, or insolent behavior toward the judge while holding court, tending to interrupt the due course of a trial or other judicial proceedings.

2. A breach of the peace, boisterous conduct, or violent disturbance, tending to interrupt the business of the court.—R. L. 1905, § 4638.

§ 432. **Constructive contempts defined.**—Constructive contempts are those not committed in the immediate presence of the court, and of which it has no personal knowledge, and may arise from any of the following acts or omissions:

1. Misbehavior in office, or other wilful neglect or violation of duty, by an attorney, clerk, sheriff, coroner, or other person appointed or elected to perform a judicial or ministerial service.

2. Deceit or abuse of the process or proceedings of the court by a party to an action or special proceeding.

3. Disobedience of any lawful judgment, order, or process of the court.

4. Assuming to be an attorney or other officer of the court, and acting as such without authority.

5. Rescuing any person or property in the custody of an officer by virtue of an order or process of such court.

6. Unlawfully detaining a witness or party to an action while going to, remaining at, or returning from the court where the action is to be tried.

7. Any other unlawful interference with the process or proceedings of a court.

8. Disobedience of a subpoena duly served, or refusing to be sworn or to answer as a witness.

9. When summoned as a juror in a court, neglecting to attend or serve as such, improperly conversing with a party to an action to be tried at such court or with any person relative to the merits of such action, or receiving a communication from a party or other person in reference thereto, and failing to immediately disclose the same to the court.

10. Disobedience, by an inferior tribunal, magistrate, or officer, of the lawful judgment, order, or process of a superior court, proceeding in an action or special proceeding in any court contrary to law after the same has been removed from its jurisdiction, or disobedience of any lawful order or process of a judicial officer.—R. L. 1905, § 4639.

§ 433. Justice's duty to enforce order and punish contempt.—Justices should command and vigorously enforce good order while conducting their proceedings, and repress and punish all disorderly behavior in his court, whether by a party, his attorney, or a bystander. If, on his trial, the offender explains his behavior so as to make it appear that no contempt was intended, and that he had a good and reasonable excuse for his conduct, the justice may discharge him without punishment. Otherwise the justice should not fail to inflict a suitable punishment, for in this way only can a proper respect for the law and the court be maintained.

§ 434. Proceedings—Punishment.—No person shall be punished for contempt before a justice of the peace until given an opportunity to be heard in his defense. If present, the offender may be summarily arraigned without a warrant. If not, the justice may issue his warrant to bring such offender before him. Punishment for a contempt may be by fine not exceeding \$20, or imprisonment in the county jail not exceeding two days.—R. L. 1905, § 3995.

§ 435. Record of conviction, where filed—Commitment.—Upon a conviction for contempt, the justice shall make up a record of the proceeding stating the particular circumstances of the offense and the judgment rendered thereon, and shall enter the same in his docket as in civil cases, and file the same with the clerk of the district court. Every warrant of commitment for contempt shall set forth the particular circumstances of the offense, or it shall be void.—R. L. 1905, § 3996.

§ 436. Disobedient witness.—When any witness attending before a justice of the peace in any cause shall refuse to be sworn in some form prescribed by law, or to answer any proper question, such justice may, by order, commit him to the county jail. Such order shall specify the cause for which the same is issued, and, if for refusing to answer a question, such question shall be specified therein; and such witness shall be closely confined pursuant to such order until he submits to be sworn or to answer, as the case may be. The justice shall thereupon adjourn such cause, upon the request of the party, for such time as shall be reasonable, or until the witness shall testify therein.—R. L. 1905, § 3997.

§ 437. Officer excused from producing party, when.—Whenever, under this chapter, an officer is required to keep a person arrested in actual custody and to bring him before a court or officer, the inability from illness or other cause, of the person to attend, shall be a sufficient excuse for not producing him in court.—R. L. 1905, § 4653.

For forms for warrant for contempt and record of conviction for contempt see § 438.

CHAPTER XIII.—FORMS IN CIVIL ACTIONS.

§ 438. **Schedule of forms.**—The following or equivalent forms shall be used by justices of the peace in proceedings to be had under the provisions of this chapter, to-wit:

SUMMONS.

“State of Minnesota, }
County of..... } ss.:

“The State of Minnesota, to the Sheriff or Any Constable of Said County:

“You are hereby commanded to summon....., the defendant herein, if he shall be found in your county, to be and appear before the undersigned, one of the justices of the peace in and for said county, on the.....day of....., 19...., at...o’clock in the.....noon of said day, at my office in the.....in said county, to answer the complaint of....., plaintiff, in a civil action, wherein the plaintiff claims the sum ofdollars, with interest thereon from the.....day of19...., at the rate of.....per cent. per annum; and have you then and there this writ.

“Given under my hand and dated this.....day of....., 19....

“.....,
“Justice of the Peace.”

SUMMONS FOR PUBLICATION.

“State of Minnesota, }
County of..... } ss.:

“The State of Minnesota to....., defendant:

“You are hereby summoned to be and appear before the undersigned, one of the justices of the peace in and for said county, on the.....day of....., 19...., at...o’clock in the.....noon of said day, at my office in the.....of.....in said county, to answer to the complaint of....., plaintiff, in a civil action, wherein the plaintiff claims the sum ofdollars. Should you fail to appear at the time and place aforesaid, judgment will be rendered against you, upon the evidence adduced by said plaintiff, for such sum as he shall show himself entitled to.

“Given under my hand and dated this.....day of....., 19....

“.....,
“Justice of the Peace.”

STATE OF MINNESOTA.

EXECUTION.

"State of Minnesota, }
County of.....} ss.:

"The State of Minnesota, to the Sheriff or Any Constable of Said County:

"Whereas, judgment against.....for the sum of.....dollars and.....cents, lawful money of the United States, and for.....dollars and.....cents, costs of suit, was recorded the.....day of....., 19...., before....., at the suit of.....

"These are, therefore, to command you to levy distress on the personal property of the said.....(excepting such as the law exempts) and make sale thereof according to law in such case made and provided, to the amount of the said sum, together with twenty-five cents for this execution, and the same return to me within thirty days, to be rendered to the said.....for.....said judgment, interest, and costs. Hereof fail not, under penalty of the law.

"Given under my hand this.....day of....., 19....

".....,
"Justice of the Peace."

WRIT OF ATTACHMENT.

"State of Minnesota, }
County of.....} ss.:

"The State of Minnesota, to the Sheriff or Any Constable of Said County:

"You are hereby commanded to attach the personal property of....., or so much thereof as shall be sufficient to satisfy the sum of....., with interest and costs of suit, in whosoever hands or possession the same may be found in your county, and so provide that the personal property so attached may be subject to further proceeding thereon, as the law requires; and also to summon the said....., defendant, if to be found, to be and appear at my office in the....., in said county, on the.....day of....., 19...., at.....o'clock in the.....noon, to answer to the complaint of....., plaintiff, in a civil action, wherein the plaintiff claims the sum of.....dollars, with interest thereon from the.....day of....., 19...., at the rate of.....per cent. per annum; and have you then and there this writ.

"Given under my hand and dated this.....day of....., 19....

".....,
"Justice of the Peace."

WRIT OF REPLEVIN.

"State of Minnesota, }
County of.....} ss.:

"The State of Minnesota, to the Sheriff or Any Constable of Said County:

"Whereas,, of said county, complains that..... has taken and does unjustly detain the following described personal property, of the value of.....dollars, to-wit:

"Therefore you are commanded that you cause the same property to be replevied without delay, and if within two days after the service of this writ the said.....shall require a return of the property, and shall execute to the plaintiff a good and sufficient bond, duly approved by me, according to the statute in such case made and provided, that you deliver the said property to him, but, if said bond is not given at the expiration of the two days, that you cause the said goods and chattels to be delivered to the said....., and also that you summon the said..... to be and appear before me, one of the justices of the peace in and for said county, on the.....day of....., 19...., ato'clock in the.....noon, at my office in the..... in said county, to answer complaint of.....

"Given under my hand this.....day of....., 19....

".....
"Justice of the Peace."

SUBPOENA.

"State of Minnesota, - }
County of.....} ss.:

"The State of Minnesota, to.....:

"You are hereby required to appear before the undersigned, one of the justices of the peace in and for the said county, at my office in the....., on the.....day of....., 19...., at.....o'clock in the.....noon of said day, to give evidence in a certain cause then and there to be tried, between, plaintiff, and....., defendant, on the part of the.....

"Given under my hand this.....day of....., 19....

".....
"Justice of the Peace."

VENIRE.

"State of Minnesota, }
County of.....} ss.:

"The State of Minnesota, to the Sheriff or Any Constable of Said County:

"You are hereby commanded to summon.....to be and appear before the undersigned, one of the justices of the peace in and for said county, on the.....day of....., 19...., at

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.....o'clock in the.....noon of said day, at my office in the.....in said county, to make a jury for the trial of a civil action between....., plaintiff, and....., defendant; and have you then and there this writ.

"Given under my hand this.....day of....., 19....

".....,
"Justice of the Peace."

WARRANT FOR CONTEMPT.

"State of Minnesota, }
County of.....} ss.:

"The State of Minnesota, to the Sheriff or Any Constable of Said County:

"You are hereby commanded to apprehend A. B., and bring him before J. P., one of the justices of the peace of said county, at his office in said county, to show cause why he, the said A. B., should not be convicted of a criminal contempt alleged to have been committed on the.....day of....., 19...., before the said justice, while engaged as a justice of the peace in judicial proceedings.

"Dated this.....day of....., 19....

".....,
"Justice of the Peace."

RECORD OF CONVICTION FOR CONTEMPT.

"State of Minnesota, }
County of.....} ss.:

"Whereas on the.....day of....., 19...., while the undersigned, one of the justices of the peace of the said county, was engaged in the trial of a cause between C. D., plaintiff, and E. F., defendant, in said county, according to the statute in such case made and provided, A. B., of the said county, did interrupt the said proceedings, and impair the respect due to the authority of the undersigned, by (here describe the cause particularly); and whereas the said A. B. was thereupon required by the undersigned to answer for the said contempt, and show cause why he should not be convicted thereof; and whereas the said A. B. did not show any cause against the said charge: Be it therefore remembered that the said A. B. is adjudged to be guilty, and is convicted of a criminal contempt aforesaid, before the undersigned, and is adjudged by the undersigned to pay a fine of.....dollars, or to be imprisoned in the common jail of said county for the term of two days or until he is discharged from imprisonment according to law.

"Dated this.....day of....., 19....

".....,
"Justice of the Peace."

—R. L. 1905, § 3998.

CHAPTER XIV.—INTOXICATING LIQUORS, PEDDLERS' LICENSE.

TITLE I.—LIQUOR LICENSES.

§ 439. **Sale forbidden.**—Any person who shall sell any intoxicating liquors in quantities less than five gallons, or in any quantity to be drunk upon the premises, except as hereinafter provided, is guilty of a misdemeanor, and shall be punished by a fine of not less than \$50, and the costs of prosecution, and by imprisonment in the county jail for not less than thirty days.—R. L. 1905, § 1519.

§ 440. **Sales by pharmacists.**—Any duly licensed pharmacist actually carrying on business as such may, in good faith, as such druggist or pharmacist, dispense such liquors upon the written prescription of a reliable practicing and licensed physician or duly licensed veterinarian, provided that only one sale of such liquor shall be made upon any one prescription; and provided, further, that such veterinarian shall only prescribe such liquors for actual use in the practice of his profession, and any such veterinarian violating the provisions herein set forth shall, upon conviction, be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not less than 30 days nor more than 90 days, for each and every violation of this act.—R. L. 1905, § 1520, as amended, G. L. 1909, Chap. 287.

§ 441. **Intoxicating liquors—License required.**—That whoever on his own behalf or as an agent for others, without having a license so to do as provided for in this act, shall solicit any person or persons, firm or corporation or association not having a license to keep a dram shop or saloon under the laws of this state or to a licensed physician or druggist to buy or contract for the future delivery, or to make order for any spirituous or vinous liquors in any less quantity than five (5) gallons or either on his own behalf or as said agent or as an agent for the purchaser make an order contracting for the future delivery of any such liquors to any said person, persons, firm, corporation or association, shall be subject to a fine of not less than fifty (\$50.00) dollars and not exceeding five hundred (\$500.00) dollars and to imprisonment in the county jail for not less than thirty (30) days nor more than ninety (90) days, or both such fine and imprisonment, in the discretion of the court.—G. L. 1905, Chap. 346, § 1.

§ 442. **County commissioners may grant—Application for license, bond, etc.**—The board of county commissioners may grant license to persons to act on their own behalf or as agents for others in the sale of spirituous or vinous liquors for future delivery

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in quantities not less than five (5) gallons to others than those duly licensed to keep a dram shop or saloon under the laws of the state in their respective counties as they think for the public good requires. Upon the application by said petitioner of a hundred of the legal voters and residents of said county, and before said license shall be issued, said applicant shall furnish good and sufficient bond in the sum of not less than one thousand (\$1,000.00) dollars or more than three thousand dollars, to be approved by the chairman of the board of county commissioners and the judge of the district court of said district, conditioned that the person so licensed will not violate the conditions of this act and that the fines assessed against the applicant or owner of said license for violation of this act will, upon final judgment against him, be fully paid, and said license shall set forth the name of the licensee, his place of residence, the place where said agency is to be exercised and the length of time he is authorized to act. The name of his principal business, the place where his principal business is located, and in case he is acting as agent, the name of the sureties of his bond, and such other information pertaining to the granting of said license as said board of county commissioners may require in a book provided for that purpose by the county clerk of the county in which such license shall be issued, and said license shall be signed by the chairman of the county board and attested by the clerk of the court of said county. No such license shall issue for less than \$500.00 per annum nor for a shorter time than one year and the payment of a license fee for the term of one year shall be conditioned precedent to the issuance of said license; such fee shall be collected by the clerk of the court of said county to be paid by him immediately into the county treasury of such county to become a part of the general school fund of said county. Provided, however, that nothing in this act shall prohibit any person, firm, corporation or association, upon their own behalf, of becoming an agent from soliciting for the sale of liquors herein enumerated within the limits of any city of (or) village for which they have a city or village license for the sale of said liquors.—G. L. 1905, Chap. 346, § 2.

§ 443. **Licensee may sell.**—Any person duly licensed by the county board, or by the proper authorities of the municipality for which such license is issued, may sell such liquors in the room named in his license, and at the times, in the manner, and to the persons allowed by law, but not otherwise.—R. L. 1905, § 1521.

§ 444. **Licenses, by whom granted.**—Licenses for the sale of liquor in municipalities may be granted by the councils thereof, and in other places by the county board. Every such license shall be for one year from its date, unless sooner annulled, shall specify the room in which sales are allowed, and shall state that the person named is authorized to sell such liquor only in such place and at the time, in the manner, and to the persons allowed

by law. In cities of the first class, not more than five such licenses for places on one side of any block within the patrol limits of such city, and fronting on such limits, shall be granted.—R. L. 1905, § 1522.

§ 445. **Application for license.**—Any person desiring a license to sell intoxicating liquors shall file with the clerk of the municipality, or, if such license is desired outside of a municipality, with the county auditor, a written application, stating the place for which it is desired and the date from which it is to run, and whether such applicant has ever prior thereto been licensed to sell intoxicating liquors in this or any other state, and if so, shall state when and where licensed, and shall deposit therewith ten dollars. Such officer shall give two weeks' published notice of the application, specifying the applicant, the description of the room for which license is sought, and the time and place of hearing. The expense of such publication shall be paid out of the deposit. Provided, that when such license is desired for a place of business in an unorganized town, such notice shall be published in a newspaper published in said county nearest to the proposed location of said place of business.—R. L. 1905, § 1523, as amended, G. L. 1907, Chap. 380, as amended, G. L. 1909, Chap. 283, § 1.

§ 446. **Bond.**—He shall also file with such officer a bond to the state in the penal sum of \$2,000, to be approved by the board or council granting the license, conditioned that he will not sell or otherwise dispose of any intoxicating liquors in any place other than the room named in the license, nor on Sunday, nor on any general or special election day, nor at any time when the sale of such liquor is forbidden by law, nor to any person to whom such sale is so forbidden; that he will keep a quiet and orderly place, and not permit gambling with cards or other means or device for money or its representative, or other thing of value in such house or place of business; and that he will not allow the place for which he is licensed, nor any room in the same or an adjoining building directly or indirectly under his control, to be used as a resort for prostitutes or other disorderly persons. Each surety shall justify in twice the penalty of the bond, and no person already a surety on a license bond shall be accepted as a surety on another.—R. L. 1905, § 1524.

§ 447. **Deposit, how disposed of.**—If for any cause no license be issued to the applicant, the auditor or clerk shall return to him any part of the deposit remaining after payment for the publication aforesaid; otherwise he shall pay such remaining sum into the county or municipal treasury, and the amount of such deposit shall be credited as part of the license fee.—R. L. 1905, § 1525.

§ 448. **Hearing.**—At the time named in the notice, or at such other time as the hearing may be, on public notice, continued to, the board or council shall hear the application and any objections

thereto, and shall make an order granting or denying the license. The names of all members voting for or against granting such license shall be entered on the record.—R. L. 1905, § 1526.

§ 449. **License fee.**—The fee for such license shall be fixed by the county board or the municipal council as follows:

In cities other than of the fourth class, at not less than \$1,000, and in all other cases at not less than \$500.

No license shall be issued until such fee has been paid in full.—R. L. 1905, § 1527.

§ 450. **Licenses for sale of intoxicating liquors.**—Any person applying to the county commissioners of any county, or to the municipal authorities of any city, village, town or borough, of this state for a license to sell intoxicating liquors, shall, before the same is issued, file with the clerk of said board of commissioners or with the clerk or recorder of such city, village, town or borough, a bond, with two or more sureties, who shall be freeholders of the county, who shall justify in twice the amount of said bond, to be approved by said board of county commissioners or by the common council or other governing body of any town, village or borough, or the common council of any city, to which such application is made, in the penal sum of two thousand (\$2,000) dollars, conditioned that the said person so licensed will not sell or otherwise dispose of any intoxicating liquors at any place other than the room named in such license, nor on the Sabbath, nor on any general or special election day, and that he will keep a quiet and orderly house, and not permit gambling with cards or with any other means or device for money or its representative, or other thing of value, in the house or place of business of such person, and will not sell, barter, give away or otherwise furnish or dispose of such liquors to any minor person, or to any pupil or student in any public school, academy, seminary or other institution of learning, nor to any intemperate person nor habitual drunkard. Such licensee shall be liable upon his said bond whether his said license has been revoked or not. The surety or sureties on any such bond shall be liable for any damage or injury caused by or resulting from the violation of any of the conditions thereof in any and all cases where the principal upon such bond may be liable. The amount specified in such bond is declared to be a penalty, the amount recoverable to be measured by the actual damages. No persons shall be accepted as sureties on any such bond who are already on any other bond given pursuant to the provisions of this section.—G. L. 1905, Chap. 246.

§ 451. **Local option.**—The clerk of any town or incorporated village, on the petition of ten legal voters thereof, filed with him, at least twenty days before the annual town meeting, or annual or charter election, shall give notice, at the same time and in the same manner as the notice of such meeting or election, that the question of license will be submitted at such meeting or election.

Said question shall be voted on by ballot, and the result thereof certified by the town clerk to the county auditor, and by the municipal clerk filed in his office. Such vote shall remain in force until reversed at a subsequent election or town meeting at which the question of license is again in like manner submitted.—R. L. 1905, § 1528.

§ 452. **Liquor licenses—Villages of 2,000 or more inhabitants.**—The village recorder of any village of this state incorporated under Chapter 146 of the General Laws of 1891, and acts authorizing villages of 2,000 inhabitants to incorporate under the provisions of said chapter, shall, upon the petition of ten (10) legal voters of such village, filed with him at least fifteen (15) days before the annual village election thereof, give notice at the same time and in the same manner as the notice of such election, that the question of granting license in such village for the sale of intoxicating liquor will be submitted for determination at such election. At such election, when so petitioned for, said question shall be voted upon by a separate ballot the terms of which shall be either “for license” or “against license,” which ballots shall be deposited in a separate ballot box to be provided in each voting precinct and the result of such voting shall be duly canvassed, certified and returned in the same manner and at the same time as the other facts and returns of said election.—G. L. 1905, Chap. 10, § 1.

§ 453. **Form of ballot—Results.**—If a majority of all the ballots cast upon such question at such election shall be “for license” the village council of said village may grant license for the sale of intoxicating liquors for the ensuing license year, but if such majority shall be “against license” then no such license shall be granted and such vote shall remain in force until reversed at a subsequent annual election at which the said question of license is again in like manner submitted.—G. L. 1905, Chap. 10, § 2.

§ 454. **Liquor license to be issued not to exceed one for each 500 population or fraction.**—From and after the passage of this act the number of licenses for the sale of intoxicating liquors which may be granted by any county or municipality shall be limited to one for each five hundred of population or fraction thereof in any township, town, village or city of this state, such population to be determined by the last preceding state or national census; provided, however, that in all such cities, villages, towns and townships where a greater number of licenses may have been granted or issued at the time of the passage of this act, than would be permissible under the foregoing limitation, it shall be lawful, and the local authorities are hereby authorized in their discretion to grant and issue licenses equal in number to those granted or issued at the time of the passage of this act, but no additional licenses in number shall be granted or issued in any such city, village, town or township until the increase in population thereof brings the same within the foregoing limitation,

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whereupon additional licenses may be granted from time to time to lawful applicants, upon compliance by such applicants with the laws of this state then in force, until the total number of licenses in force in any township, town, village or city shall equal one for each five hundred of population or fraction thereof, as ascertained by the last preceding state or national census.—G. L. 1909, Chap. 75, § 1.

§ 455. Regulation for issuing licenses in municipalities where licenses do not now exist.—Whenever any county or municipality in which no licenses exist, shall at any time hereafter, grant licenses for the sale of intoxicating liquors, it shall be lawful for such county or municipality to grant licenses only to the number of one for every five hundred of population or fraction thereof, in any township, town, village or city, as ascertained by the then last preceding state or national census, and no more, until the increase in population thereof brings the same within the limitation of one for each five hundred of population or fraction thereof as ascertained by the then last preceding state or national census, whereupon additional licenses may be granted from time to time, to lawful applicants upon compliance by such applicants with the law of this state, then in force; provided, that the respective local authorities may grant one license in any township, town or municipality having less than five hundred of population.—G. L. 1909, Chap. 75, § 2.

§ 456. Provisions to apply in municipalities now granting license hereafter voting license and following with license.—Whenever any town or municipality in which licenses have been granted at the time of the passage of this act, shall at any time hereafter vote “no license,” under the provisions of the local option laws of this state, or the provisions of any municipal charter, as the case may be, and such town or municipality shall at any time, after voting “no license,” again vote “for license,” under the laws of this state, or the provisions of any municipal charter, as the case may be, the number of licenses which may then and thereafter be granted within such town or municipality, shall, at no time, exceed one for each five hundred of population or fraction thereof, as ascertained by the then last preceding state or national census; provided, that one license may be granted in any town or municipality having less than five hundred of population.—G. L. 1909, Chap. 75, § 3.

§ 457. Existing local option laws not modified.—Nothing in this act contained shall be construed as repealing or modifying existing local option laws.—G. L. 1909, Chap. 75, § 4.

§ 458. License, to whom not issued.—No license shall be granted to any person of known bad character; nor to the keeper of any house of prostitution or place frequented by prostitutes or other disorderly persons; nor to the keeper of any gambling house or place where gambling in any form is allowed; nor to any person who has within one year next preceding the filing of

his application for such license, knowingly violated any law or ordinance relating to the sale of liquor or to the conduct of drinking places, or any of the conditions of his bond; nor to any person not a bona fide resident of this state; nor to any person not of good moral character; nor to any person until the licensing body shall have investigated the applicant for such license, his character, and his record as licensee, in the event such applicant has prior thereto been licensed to sell intoxicating liquors in this or any other state, and for that purpose may continue the hearing upon such application from time to time; and no such license shall be granted unless, after such investigation, such applicant shall be ascertained to be of good moral character and otherwise qualified to hold license under this act.

It is hereby made the especial and positive duty of every such licensing body to fully investigate, or cause to be fully investigated, the character and record of every such applicant for license, in accordance with the provisions of this act, and any officer in this state who shall wilfully violate any of the provisions of this act, or who shall wilfully refuse or neglect to perform any duty imposed upon him thereby, shall be guilty of a misdemeanor, and upon conviction thereof, in addition to other penalty imposed by law, he shall forfeit his office and the same shall thereupon be deemed vacant; and any applicant for such license who shall wilfully make any false statement or representation to the licensing body, in his application for license, or otherwise, concerning his application or his qualifications for holding license, shall be guilty of a misdemeanor and, upon conviction thereof, in addition to other penalties imposed by law, all the rights and privileges granted by such license shall thereupon cease.—R. L. 1905, § 1529, as amended, G. L. 1909, Chap. 283, § 2.

§ 459. Minors, intemperate drinkers, habitual drunkards and certain inmates excluded from licensed saloons—Penalty.—No minor, intemperate drinker, habitual drunkard, inmate of a poor or almshouse, or person under guardianship, shall be allowed in any room where intoxicating liquor is sold in less quantities than five gallons as a beverage, after written notice upon the licensee or his agent, by parent, husband, wife, child, guardian, master or employer of such minority, intemperate drinking, habitual drunkenness or guardianship, or in the case of an intemperate drinker, inmate of a poor or almshouse, or habitual drunkard, after written notice by the mayor, chief of police, judge of the municipal court, or any member of the council of the municipality in which such intemperate drinker or habitual drunkard resides, or member of the county board of the county in which such inmate of a poor or almshouse, intemperate drinker or habitual drunkard resides, and within one year after such notice, in case of an inmate of a poor or almshouse, intemperate drinker or habitual drunkard, and in other cases during the continuance of the minority or guardianship. Any violation of this act shall be punished by a

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fine of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100), or by imprisonment in the county jail for not less than thirty (30) days nor more than ninety (90) days.—G. L. 1909, Chap. 198.

§ 460. **Licenses, where not issued.**—No license shall be issued for the sale of liquor in any place where such sale is forbidden. Any license issued in violation of this section, or to any person who within one year next preceding the issue thereof has been convicted of violating any law or ordinance regarding the sale of liquor or the conduct of drinking places, or whose license bond has been declared forfeited, shall be void, and all sales thereunder illegal.—R. L. 1905, § 1530.

§ 461. **Voting for illegal license—Penalty.**—Any member of a county board or municipal council who shall knowingly vote in favor of granting any illegal license for the sale of intoxicating liquor, or who, being present, shall fail to vote against it, and any officer knowingly signing or issuing any such illegal license, shall be guilty of a misdemeanor.—R. L. 1905, § 1531.

§ 462. **Sale, when forbidden.**—No person licensed to sell intoxicating liquors shall sell or otherwise dispose of such liquors at any of the following times:

1. On any day between the hours of 11 in the evening and 5 in the morning.

2. On any general, special, or primary election day.

3. At any hour on Sunday.—R. L. 1905, § 1532.

§ 463. **Sale, where forbidden.**—The sale of such liquor in any quantity whatever is also forbidden in the following places:

1. In any town or municipality in which a majority of votes at the last election at which the question of license was voted upon shall not have been in favor of licensee, or within one-half mile of any such municipality, except that any intoxicating liquor, manufactured within any such district, may be sold to be consumed outside of such district.

2. Within the capitol, or upon the grounds thereof.

3. Upon the state fair grounds, or within one-half mile thereof.

4. At any place on the east side of the Mississippi river within one mile from the main building of the University of Minnesota.

5. Within fifteen hundred feet of any state normal school, or any public school outside of a municipality.

6. At more than five places on any one side of a block within and fronting upon the patrol limits of cities of the first class.—R. L. 1905, § 1533.

§ 464. **Sale, to whom illegal.**—The sale of such liquor at any time or place, except by a licensed pharmacist as aforesaid, is illegal:

1. To a minor.

2. To a pupil or student of any school or other educational institution in this state.

3. To an intoxicated person or habitual drunkard.
4. To a public prostitute.
5. To a spendthrift, or an improvident person, within one year after written notice by any peace officer, parent, guardian, master, employer, relative or by any person annoyed or injured by the intoxication of such person, forbidding the sale of liquor to him.
6. To any person of Indian blood.

Whoever shall in any way procure liquor for the use of any person named in this section shall be deemed to have sold it to such person.—R. L. 1905, § 1534.

§ 465. **Prohibiting sale of liquors to paroled prisoners.**—It shall be unlawful for any person to sell, give, barter, furnish, or dispose of, in any manner, either directly or indirectly, or by agent, employee or otherwise, any spirituous, vinous, malt, or fermented liquors in any quantity or for any purpose whatever to any person on parole from any state institution of this state during the term of his parole; and any person violating the foregoing provision of this section shall be guilty of a misdemeanor; and on conviction thereof by any court having jurisdiction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, and costs of prosecution, or by imprisonment in the county jail not less than thirty nor more than ninety days, or until such fine and costs are paid, not exceeding ninety days.

§ 466. This act shall not apply to persons who have no knowledge that the person procuring such liquors is such paroled person.—G. L. 1905, Chap. 72.

§ 467. **Licenses, when transferred.**—Any liquor license may be transferred to another person or place in the same town or municipality, any provisions of any city charter, or city or village ordinance to the contrary notwithstanding in the following cases only:

1. When the licensee desires to change his place of business.
2. When the licensee has sold and disposed of his business.

But no license shall be transferred to any person or place to whom or for which license might not at the time of transfer be legally issued: nor unless notice of application for transfer be given at the expense of applicant, and only upon investigation as in the case of an original license.—R. L. 1905, § 1535, as amended, G. L. 1909, Chap. 283, § 3.

§ 468. **Licenses, how annulled.**—Every liquor license shall be annulled by operation of law:

1. By the death of the licensee.
2. By the sale of liquor becoming unlawful in the place for which such license is granted.
3. When granted by a county board, by the subsequent inclusion of the place for which it was granted within a municipality.

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In such cases, and in no other, such part of the license fee as corresponds to the time such license had yet to run may be returned.—R. L. 1905, § 1536.

§ 469. **Licenses to become void.**—Every license shall become void upon the conviction of the licensee of selling or furnishing intoxicating liquor to a minor, habitual drunkard, spendthrift, or improvident person, after the notice forbidding such sale, as in this chapter provided.—R. L. 1905, § 1537.

§ 470. **Revocation.**—Any liquor license may be revoked and made void by the board or council authorized to issue the same, after notice to the licensee and opportunity to be heard, upon proof of violation of any law or ordinance regarding the sale of liquor or the keeping of public drinking places, or of any condition of his bond. In such case, if the licensee is the owner of the premises, no license shall be issued to any person for such premises during the term for which such license was granted. If the license is revoked by reason of a sale to minor, habitual drunkard, or a spendthrift or improvident person, after notice forbidding such sale, no license shall be issued to the licensee for five years thereafter, nor in any other case for one year after the time for which the license forfeited was granted. No acquittal on a criminal charge shall prevent the revocation of a license.—R. L. 1905, § 1538.

§ 471. **License money, how applied.**—All money paid into the county treasury for liquor licenses shall be credited one-half to the county road and bridge fund, and one-half to the road and bridge fund of the town in which the drinking place is situated, except that in counties having a population of 275,000 or more inhabitants, the entire amount of such liquor license money shall be credited to the road and bridge fund of the town in which the drinking place, from which such money came, is situated. All money so paid into any municipal treasury, except cities of the first, second and third class, shall be distributed as follows: Ten per cent thereof shall be paid into the county treasury and credited to the General Revenue Fund, and the remaining ninety per cent thereof shall be credited to the general fund of the municipality issuing the license; provided that in case any such municipality is situated in two or more counties, then said 10 per cent shall be divided pro rata among such counties; but the council may appropriate any part thereof to any school district wholly or partially within such municipality for general or specific purposes. Such council may also appropriate the whole or any part thereof, to the construction or repair of roads or streets within or adjacent to or leading from, such municipality. Provided, that nothing herein contained shall be construed to repeal Chapter 443 of the Special Laws of the State of Minnesota for the year 1889.—R. L. 1905, § 1539, as amended G. L. 1907, Chap. 433, as amended G. L. 1909, Chap. 450.

§ 472. **Liability for acts of intoxicated person.**—The licensee and the sureties on his bond shall be jointly and severally liable for all damage done by persons while intoxicated by liquor obtained from such licensee after the revocation of the license.—R. L. 1905, § 1540.

§ 473. **Certificate of conviction.**—Upon any conviction for violation of any law or ordinance relating to the sale of liquor or the conduct of drinking places, or upon any judgment forfeiting his license bond, the court shall cause to be filed with the clerk of the board or council having power to issue a license in the place for which such license was issued a certificate showing the offense for which conviction was had or judgment rendered.—R. L. 1905, § 1541.

§ 474. **List of licenses.**—The clerk of every board or council granting liquor licenses shall keep a list of all such licenses, showing the date of each, the name of the licensee, the amount paid therefor, the place for which it was granted, and any transfer thereof, with the name of the person to whom, and a description of the place to which, it was transferred.—R. L. 1905, § 1542.

TITLE II.—PUBLIC DRINKING PLACES.

§ 475. **Public drinking place defined.**—All saloons, public bars, and other places of business of public resort where liquor is commonly sold in quantities less than five gallons, or to be drunk on the premises, shall be public drinking places.—R. L. 1905, § 1543.

§ 476. **Conduct.**—All public drinking places shall be kept quiet and orderly, and no person to whom the sale of liquor is forbidden shall be allowed to frequent any such place.—R. L. 1905, § 1544.

§ 477. **To be kept closed, when.**—All such places, except hotels and restaurants, and, in hotels and restaurants, all public bars and places where liquor is exposed or sold, shall be kept closed at all times during which the sale of liquor is forbidden.—R. L. 1905, § 1545.

§ 478. **License posted.**—Every keeper of a licensed drinking place shall keep his license and any transfer thereof posted conspicuously in such drinking place.—R. L. 1905, § 1546.

§ 479. **Games prohibited.**—No gambling or playing for money or its representative, or other thing of value, shall be allowed in any drinking place, or in any room communicating therewith, nor any tables except pool and billiard tables, nor any slot machines or other gambling devices. No game of any kind, except pool and billiards, and no throwing of dice, shall be allowed in any such place or room.—R. L. 1905, § 1547.

§ 480. **Violation—Penalty.**—Any person violating any of the provisions of this chapter relating to the conduct of public drinking places shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$10.—R. L. 1905, § 1548.

§ 481. **Unlicensed places nuisances.**—All unlicensed drinking places are hereby declared public nuisances, and may be abated as such by injunction or other legal proceedings.—R. L. 1905, § 1549.

§ 482. **Unlicensed place—Penalty.**—Every person who, directly or indirectly, by himself or by combining with others, shall keep an unlicensed drinking place, or in any way aid or abet in keeping any such place, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$50, or imprisonment in the county jail for not less than thirty days.—R. L. 1905, § 1550.

§ 483. **Allowing premises to be used—Penalty.**—Every person who, as owner, agent, or lessee, shall let or sublet any building, premises, or part of either, knowing that it is intended to be used as an unlicensed drinking place, or, with such knowledge, assigns any lease, or knowingly permits any such building, premises, or part of either, to be so used, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$50, or imprisonment for not less than thirty days.—R. L. 1905, § 1551.

§ 484. **Evading law—Penalty.**—Every person who shall evade or attempt to evade the liquor laws of this state by means of any artifice or contrivance intended to conceal the unlawful sale of liquor, or the identity of the person selling the same, shall be guilty of a misdemeanor.—R. L. 1905, § 1552.

§ 485. **Search warrant.**—Upon complaint before a magistrate charging any person or persons with keeping an unlicensed drinking place, and particularly describing the premises on which such place is kept, the magistrate, in addition to a warrant for the arrest of such person shall issue a search warrant, commanding the officer to search such premises, and to seize and hold, subject to the order of the court, all intoxicating liquors, vessels, bars, bar fixtures, screens, bottles, glasses, jugs and all other appurtenances found therein apparently used in retailing liquors, to make an inventory of the same, and forthwith to serve a copy thereof on the defendant, or person in charge thereof.—R. L. 1905, § 1553.

§ 486. **Liquors, etc., how disposed of.**—If the defendant in any such action be convicted, the liquors found on the premises shall be destroyed by the officer seizing the same, and all other articles taken under the warrant shall be forfeited to the school fund of the county, and sold by such officer, as upon execution.—R. L. 1905, § 1554.

TITLE III.—PENALTIES AND PROSECUTIONS.

§ 487. **Fraudulent shipment.**—Every person who shall knowingly deliver or cause to be delivered to any common carrier for shipment any liquor under a false or misleading title, name, or mark, and every common carrier, or agent of such carrier, who shall knowingly receive the same for shipment, and every person knowingly shipping or receiving any liquor so marked, shall be

guilty of a misdemeanor; and any liquor so shipped with the knowledge of the owner, and the casks or packages containing the same, shall be forfeited to the school fund of the county. The books and waybills of any common carrier handling such liquors may be examined by any police officer for the purpose of tracing such liquors to the shipper or receiver.—R. L. 1905, § 1555.

§ 488. **Sale near state fair grounds—Penalty.**—Any person who shall sell any liquor or maintain a drinking place within one mile of the state fair grounds, while the state fair is being held, or shall aid or abet another in either of such acts, shall be guilty of a gross misdemeanor, and shall be punished for the first offense by a fine of not less than \$100 nor more than \$250, or imprisonment for not less than thirty nor more than ninety days, or by both such fine and imprisonment; for each subsequent offense, by a fine of not less than \$500 nor more than \$1,000, or by imprisonment in the county jail for not less than three nor more than six months, or by both.—R. L. 1905, § 1556.

§ 489. **Pharmacists, when punished.**—Any pharmacist or druggist who shall sell any liquor except as allowed by this chapter, or who shall allow his place of business to be used as an unlicensed drinking place, shall be subject to all the penalties provided in this chapter for such acts.—R. L. 1905, § 1557.

§ 490. **Physician—Penalty.**—Every physician who shall give a prescription of liquor for other than medicinal purposes, or with intent to aid in the evasion of the liquor laws of this state, shall be guilty of a misdemeanor, and shall be subject to the penalties prescribed for the illegal sale of liquor, and shall also forfeit his license as a physician.—R. L. 1905, § 1558.

§ 491. **Sale to minors, etc., after notice.**—Every person selling liquor to a minor, habitual drunkard, or person under guardianship, after written notice by a parent, husband, wife, child, guardian, master or employer, of such minority, habitual drunkenness, or guardianship, or in the cases of an habitual drunkard after written notice by the mayor, chief of police or any member of the council of the municipality, in which such habitual drunkard resides, or member of the county board of the county in which such habitual drunkard resides, and within one year after such notice in case of an habitual drunkard, and in other cases during the continuance of the minority, or guardianship, shall be punished by fine of not less than \$50, nor more than \$100, or imprisonment in the county jail for not less than 30 days nor more than 90 days.—R. L. 1905, § 1559, as amended G. L. 1907, Chap. 247.

§ 492. **Punishment on conviction of drunkenness.**—Every person who becomes intoxicated by voluntarily drinking intoxicating liquors shall be guilty of the crime of drunkenness, and punished as follows: For a first offense, by imprisonment in the county jail for not more than forty days, or by a fine of not more than forty dollars; for the second offense, by imprisonment for not more than sixty days or by a fine of not more than sixty

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dollars; for the third and all subsequent offenses, by imprisonment for not less than sixty days nor more than three months; provided, that the court may in its discretion, after conviction, for the first or second offense suspend sentence during the good behavior of the accused, but if he shall again transgress within a period of six months thereafter, he shall again be brought before the court and shall be punished by a term of imprisonment as provided for in this section.—R. L. 1905, § 5160, as amended G. L. 1907, Chap. 208.

§ 493. **Sale to Indians.**—Whoever sells or in any way furnishes liquor to any person of Indian blood, whether a member of any tribal organization or not, except as hereinbefore provided in case of licensed pharmacists, shall be guilty of a felony, and shall be punished by imprisonment in the state prison for not more than two years, and a fine of not more than \$300.—R. L. 1905, § 1560.

§ 494. **Sale of liquor without license—Penalty.**—Whoever sells, barter, gives away, delivers, transfers or otherwise disposes of or has in his possession for the purpose of selling, giving away, bartering, delivering, transferring or otherwise disposing of any spirituous malt, fermented or vinous liquors without first having obtained license therefor agreeably to the laws of the state of Minnesota, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court having jurisdiction of the same be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, together with the costs of prosecution, and by imprisonment in the county jail not less than sixty days nor more than ninety days; provided, that the provisions of this section shall not be so construed as to prohibit any regularly licensed druggist from dispensing liquors in filling prescriptions made by any regular, reputable and duly licensed physician in the practice of his profession.—G. L. 1905, Chap. 59, § 1.

§ 495. **Complaint—Search warrant—Hearing.**—When complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that any person, naming him, if his name is known, has in his possession for the purpose of selling, giving away, bartering, delivering, transferring or otherwise disposing of, any spirituous, malt, fermented or vinous liquors, without first having obtained license therefor agreeably to the laws of this state, such magistrate, if he is satisfied that there is reasonable cause for such belief, shall issue a search warrant to search for and seize any such spirituous, malt, fermented or vinous liquors, commanding the officer to bring the same, when found, before such magistrate to be used as evidence at the preliminary hearing and trial of such person as may be accused of having the same in his possession. After such liquor is used as evidence it shall be returned to the person in whose possession it was found.—G. L. 1905, Chap. 59, § 2.

§ 496. **Possession evidence of intent.**—The finding of any such spirituous, malt, fermented or vinous liquors in the possession of any person, either by means of search warrant or otherwise, shall be prima facie evidence that such person had possession of such liquors for the purpose of selling, bartering, giving away, delivering, transferring or otherwise disposing of the same without first having obtained license therefor agreeably to the laws of this state, and no further evidence of guilt shall be required of the prosecution, but such possession may be satisfactorily explained by the accused in his defense.—G. L. 1905, Chap. 59, § 3.

§ 497. **Repeals.**—All acts and parts of acts inconsistent herewith are hereby repealed.—G. L. 1905, Chap. 59, § 4.

§ 498. **Application of act.**—This act shall apply only in counties having more than 75,000 and less than 150,000 inhabitants.—G. L. 1905, Chap. 59, § 5.

§ 499. **Evidence against persons illegally selling intoxicating liquors.**—Upon the filing of an affidavit subscribed and sworn to by a resident voter of the county, with any justice of the peace having criminal jurisdiction, or clerk of a municipal court in said county, which affidavit shall set forth upon knowledge or upon information and belief the name of any person or persons who frequent any place in said county for the purpose of obtaining intoxicating liquors, the location of such place and the name of the proprietor thereof, if known, such justice of the peace if such place is within the town or district in which he was elected, or a justice of the peace having criminal jurisdiction in an adjoining town or district, or clerk of such municipal court having jurisdiction shall forthwith issue a subpoena for the person or persons named in said affidavit as frequenting such place, commanding them to appear before such justice or court at a day and hour named therein. At the time of said appearance such justice or court shall interrogate said witnesses for the purpose of determining whether or not intoxicating liquors are illegally sold or disposed of at the place named in said affidavit; and if it shall appear as the result of such examination that intoxicating liquor has been illegally sold or disposed of at such place, such justice of the peace or judge of such court shall forthwith issue a warrant for the arrest of any person or persons who shall appear by such examination to have been guilty of such illegal sale or disposition; and such person shall thereupon be prosecuted for such offense. No testimony given upon such hearing shall be in any manner used to the prejudice of the witness giving the same, and the failure of any witness to answer questions put to him upon such examination may be punished as a contempt the same as in other cases.—G. L. 1905, Chap. 192.

§ 500. **Common and habitual selling of liquor without license—Offense defined.**—Any person who shall in any one county of this state have been adjudged guilty of the offense of selling,

bartering, or disposing of in any manner any spirituous, vinous, fermented, malt, or intoxicating liquor in a less quantity than five (5) gallons, without first having obtained license therefor, agreeable to the provisions of the laws of this state, three or more times within two years immediately preceding the commencement of the proceedings against him, under the provisions of this act, shall be deemed guilty of the crime of "common and habitual liquor selling without license" and upon conviction of such crime of "common and habitual liquor selling without license" shall be punished by imprisonment in the state prison for not to exceed three years.—G. L. 1905, Chap. 54, § 1.

§ 501. **Date of commission of offense.**—In all prosecutions under the provisions of this act, the date of the last conviction of such selling, bartering or disposing of liquor, shall be deemed the date of the commission of the offense of "common and habitual liquor selling without license," charged against such person in the indictment.—G. L. 1905, Chap. 54, § 2.

§ 502. **Duty of officers.**—Every sheriff, constable, marshal, and policeman shall summarily arrest any person found committing any act forbidden by this chapter, and make complaint against him. Every county attorney shall prosecute all cases under this chapter arising in his county. The president or mayor of every municipality shall make complaint of any known violation of the provisions of this chapter, and the chief of police and all policemen shall make arrest and complaints as in this section provided, anything in the ordinances or by-laws of such municipality to the contrary notwithstanding.—R. L. 1905, § 1561.

§ 503. **Official neglect—Penalty.**—Any county commissioner, member of a municipal council, sheriff, or other officer, who wilfully refuses or neglects to perform any official duty imposed by this chapter, shall be guilty of malfeasance in office, and shall be removed therefrom, and be disqualified from holding the same for and during the remainder of the term for which he was elected or appointed, and shall forfeit not less than \$100 nor more than \$500, which amount may be recovered in an action against him personally or on his official bond.—R. L. 1905, § 1562.

§ 504. **Commissioners, etc., personally liable.**—When property cannot be found sufficient to satisfy any judgment rendered in an action against principal and sureties upon any license bond, of which the return of an execution of the district court unsatisfied shall be prima facie evidence, the county commissioners or members of the municipal council who voted to approve such bond shall be personally and individually liable for such judgment, unless such sureties at the time of signing such bond testified before a district judge or justice of the peace that they were worth double the amount of the penalty of such bond, above debts and exemptions. Any county commissioner or member of a municipal council voting for the granting of any liquor license without a license bond as required by law, or present and not voting against

the same, shall be personally liable as a surety upon the required bond.—R. L. 1905, § 1563.

§ 505. **Construction of terms.**—The terms “intoxicating liquor” and “liquor,” wherever used in this chapter, shall include distilled, fermented, spirituous, vinous, and malt liquor. The terms “sell” and “sale” shall include all barter, gifts and all means of furnishing liquor in violation or evasion of law.—R. L. 1905, § 1564.

§ 506. **Sale by employee.**—Any sale of liquor in or from any public drinking place by any clerk, barkeeper, or other employee authorized to sell liquor in such place shall be deemed the act of the employer as well as that of the person actually making the sale; and every such employer shall be liable to all the penalties provided by law for such sale, equally with the person actually making the same.—R. L. 1905, § 1565.

§ 507. **Prosecutions and evidence.**—In prosecutions under this chapter, it shall not be necessary to allege or prove the name or kind of intoxicating liquor sold, and proof of the sale of what appeared to be intoxicating liquor shall be prima facie proof of the sale of such liquor. In all prosecutions for keeping an unlicensed drinking place, the finding of intoxicating liquor on the premises, or of any bar, bar fixtures, or other things apparently used for or in connection with the sale of intoxicating liquor, or any sign or advertisement indicating the sale of liquor on such premises, or a receipt for the United States tax for the sale of spirituous or vinous, malt, or fermented liquor posted therein, and covering the time alleged in the complaint or indictment, or proof of the payment of such tax for such period, shall, except in case of a licensed pharmacist engaged at such place in the business of druggist or pharmacist, be prima facie evidence that such place is a public drinking place. In any prosecution under this chapter, it shall not be necessary to prove the want of license, but such license shall be a matter of defense.—R. L. 1905, § 1566.

TITLE IV.—PEDDLERS' LICENSE.

§ 508. **Peddler's license fee.**—No license fee or other charge shall be required of any honorably discharged soldier, sailor, or marine who served the United States in the Civil War, or in the Spanish-American War, for the privilege of hawking or peddling goods and merchandise, not prohibited by law or ordinance solely on his own account. Upon application therefor, accompanied by proof of such discharge, to any clerk or other officer authorized to issue such license, the same shall forthwith be granted. Every violation hereof shall be deemed a misdemeanor, the minimum punishment whereof shall be a fine of \$10.—R. L. 1905, § 1849, as amended, G. L. 1907, Chap. 393.

CHAPTER XV.—PUBLIC HEALTH.

TITLE I.—BOARD OF HEALTH—POWERS AND DUTIES.

§ 509. **State Board—Appointment—Terms.**—The State Board of Health shall consist of nine members, learned in sanitary science, who shall be appointed by the Governor for such periods that the terms of three members will end on the first Monday of January in each year. Vacancies therein shall be filled by like appointment for the unexpired terms, and each member shall serve until his successor qualifies.—R. L. 1905, § 2127.

§ 510. **General duties of board—Reports.**—The board shall exercise general supervision over all health officers and boards, take cognizance of the interests of health and life among the people, investigate sanitary conditions, learn the cause and source of diseases and epidemics, observe the effect upon human health of localities and employments, and gather and diffuse proper information upon all subjects to which its duties relate. It shall gather, collate, and publish medical and vital statistics of general value, and advise all state officials and boards in hygienic and medical matters—especially those involved in the proper location, construction, sewerage, and administration of prisons, hospitals, asylums, and other public institutions. It shall report its doings and discoveries to the Legislature at each regular session thereof, with such information and recommendations as it shall deem useful.—R. L. 1905, § 2130.

§ 511. **General and special rules.**—The board may adopt, alter, and enforce reasonable regulations, of permanent application throughout the whole or any portion of the state, or for specified periods in parts thereof, for the preservation of the public health. Upon the approval of the Attorney General, and the due publication thereof, such regulations shall have the force of law, except in so far as they may conflict with a statute or with the charter or ordinances of a city of the first class upon the same subject. In and by the same the board may control, by requiring the taking out of licenses or permits, or by other appropriate means, any of the following matters:

1. The manufacture into articles of commerce, other than food, of diseased, tainted or decayed animal or vegetable matter;
2. The business of scavenging and the disposal of sewage;
3. The location of mortuaries and cemeteries, and the removal and burial of the dead;
4. The management of lying-in houses and boarding places for infants, and the treatment of infants therein;
5. The pollution of streams and other waters, and the distribution of water by private persons for drinking or domestic use;

6. The construction and equipment, in respect to sanitary conditions, of schools, hospitals, almshouses, prisons, and other public institutions, and of lodging houses and other public sleeping places kept for gain;

7. The treatment in hospitals and elsewhere, of persons suffering from communicable diseases, the disinfection and quarantine of persons and places in case of such disease, and the reporting of sickness and deaths therefrom;

8. The furnishing of vaccine matter, the assembling, during epidemics of smallpox, with other persons not vaccinated. But no rule of the State Board or of any public board or officer shall at any time compel the vaccination of a child, or shall exclude, except during epidemics of smallpox and when approved by the local Board of Education, a child from the public schools, for the reason that such child has not been vaccinated. Any person thus required to be vaccinated may select for said purpose any licensed physician, and no rule shall require the vaccination of any child whose physician shall certify that by reason of his physical condition vaccination would be dangerous.

9. The accumulation of filthy and unwholesome matter to the injury of the public health, and the removal thereof; and

10. The collection, recording, and reporting of vital statistics by public officers, and the furnishing of information to such officers, by physicians, undertakers, and others, of births, deaths, causes of death, and other pertinent facts.—R. L. 1905, § 2131.

§ 512. **Publication—Penalties.**—Three weeks' published notice of such regulations, if of general application throughout the state, shall be given at the seat of government; if of local application only, as near such locality as practicable. Special rules, applicable to particular cases, shall be sufficiently noticed when posted in a conspicuous place upon or near the premises affected. Every person violating any such regulation, or any lawful direction of a board of health or health officer, shall be guilty of a misdemeanor. Fines collected for violations of regulations adopted by the state board shall be paid into the state treasury; and of local boards and officers, into the county treasury.—R. L. 1905, § 2132.

§ 513. **Interstate carriers.**—Whenever necessary, the board may establish and enforce a system of quarantine against the introduction into the state of any plague or other communicable disease by common carriers doing business across its borders. Its members, officers, and agents may board any conveyance used by such carriers, to inspect the same, and, if it be found infected, may detain such conveyance, and isolate and quarantine any or all persons found thereon, with their luggage, until all danger of communication of disease therefrom is removed.—R. L. 1905, § 2133.

§ 514. **Local boards—Health officers.**—Every town board shall be a board of health within and for the town, and shall have

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jurisdiction over every village within its boundaries wherein no organized board of health exists. Every village may, and every city shall, provide by ordinance for the establishment of a board of health therefor. In the absence of such provision in any city, the state board may appoint three or more persons to act as such until a local board is established and organized, and may fix their compensation, which the city shall pay. Two members of every county board, chosen by it yearly at its annual meeting, and one resident physician elected at the same time, shall constitute the county board of health, with jurisdiction over all unorganized towns therein, and with such other powers and duties in reference to the public health as the state board shall by its published regulations prescribe. All local health boards of each county shall co-operate so far as practicable, and the state board, by written order, may require any two or more local boards to act together for the prevention or suppression of epidemic diseases. At least one member of every local board shall be a physician, who shall be the local health officer and executive of the board. If no member of a town board is a physician, it shall appoint a health officer for the town. The compensation of all local health officers shall be prescribed by the body appointing him or to which he belongs, and the same, together with his necessary expenses, shall be paid by the county or municipality in which he serves.—R. L. 1905, § 2134.

§ 515. **Duties and penalties.**—All local boards of health and health officers shall make such investigations and reports, and obey such directions concerning communicable diseases, as the state board may require or give; and, under the general supervision of the state board, they shall cause all laws and regulations relating to the public health to be obeyed and enforced. Every member or officer refusing or neglecting to perform any duty imposed upon him by or pursuant to this chapter, or by any statute, ordinance, or by-law relating to the public health, shall be guilty of a misdemeanor.—R. L. 1905, § 2135.

§ 516. **Entry for inspection, etc.—Penalty.**—For the purposes of performing their official duties, all members, officers, and employees of the state and local boards of health, and all health officers, shall have the right to enter any building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected. Every person who wilfully prevents or hinders such entry, or otherwise interferes with the performance of such duties, shall be guilty of a misdemeanor.—R. L. 1905, § 2136.

§ 517. **Necessary help—To whom chargeable.**—Every local board of health shall employ, at the cost of the town, county, or place in which it exists, when necessary, all medical and other help required for the prevention or suppression of communicable diseases, or for carrying out within its jurisdiction the lawful regulations and directions of the state board and its officers and

employees: and, upon its failure so to do, the state board may employ such assistance at the local charge. But all persons whose duty it is to care for another infected with a communicable disease, to isolate such patient, or to fumigate or otherwise disinfect any article or place, shall be liable for the reasonable cost thereof to any one performing such duty, or to any county, town, or municipality paying such cost.—R. L. 1905, § 2137, as amended G. L. 1907, Chap. 327.

§ 518. **Allowance and payment of expenses, etc.**—All claims arising under the preceding section against any town, village, or city, if not paid by persons liable therefor, shall be presented to the town board or council for audit and allowance as in the case of other claims. If any such claim be deemed excessive, or the whole or any part of the services or expenses charged for unnecessary, the items or parts objected to shall not be allowed without the approval of two disinterested physicians, given in the presence of the board or council. Upon the allowance of any such claim, the amount thereof shall be paid, and a certified statement shall be transmitted to the county auditor, embracing a copy of the claim as allowed, the date of such allowance, and showing for what purpose and to whom the allowance was made. The auditor shall lay such statement before the county board at its meeting next following the receipt thereof. One-half the amount so allowed and paid shall be a claim against the county, and, if deemed just and reasonable by the board, the same shall be allowed and paid.—R. L. 1905, § 2138.

§ 519. **Appeal from disallowance—Costs.**—Within ten days after written notice by the auditor to the clerk of the town, village, or city of the disallowance of the whole or any part of the half or any such claim chargeable upon the county, the claimant may appeal from such disallowance to the district court by giving notice of appeal as in other cases, and without giving any bond or other security thereon. Such appeal shall be noticed, tried, and determined as in other appeals from the disallowance of claims by the county board. Unless the appellant shall recover more than the amount allowed by the county board, it shall be liable for costs and disbursements; otherwise the county shall be liable.—R. L. 1905, § 2139.

TITLE II.—VITAL STATISTICS.

§ 520. **Vital statistics—Births and deaths.**—(a) The state board of health shall have general supervision of the state system of registration of births and deaths, and shall prepare and furnish at the expense of the state, on forms to be printed by the state printing commission, all blanks for obtaining and preserving a record of the same. The secretary of said board shall be known as the state registrar, and shall be the administering officer of the state in connection therewith. All local registrars and sub-registrars to whom such blanks are furnished, shall obey

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the directions of said board, concerning the use, filing and return thereof. If any such officer shall refuse or fail to obtain and furnish the information so required, the state board of health may obtain the same by other proper means, and the reasonable costs thereof shall be charged to and paid for by the city, incorporated village or township where the expense is necessarily incurred.

(b) Each city, borough, village and township shall, for the purpose of this act, constitute a primary registration district. In cities, boroughs and villages, the health officer shall be, and shall be known as, the local registrar. In townships, the town clerk shall serve in a similar capacity. The governor may remove from office, after notice, and an opportunity to be heard, any local registrar who fails or neglects to discharge the duties of his office, and thereupon the state board of health may appoint another in his place. The local registrar shall appoint a deputy who shall act in his stead in case of his absence, illness, or disability; said deputy shall accept such appointment in writing and shall be subject to the same rules and regulations governing the actions of the local registrar. Whenever it may appear necessary to said board, it may also appoint one or more persons to act as sub-registrars to receive certificates and issue burial or removal permits, and may designate the district over which such sub-registrars shall have jurisdiction. Sub-registrars shall perform the same duties, and be liable to the same penalties for failure or neglect so to do, as herein provided for registrars, except that sub-registrars shall note thereon the date that a certificate of birth or death is filed with them, shall thereupon sign the same, and within ten (10) days thereafter, forward the same to the registrar of the proper city, village or township.

(c) Local registrars are hereby charged with the strict and thorough enforcement, under the supervision and direction of the state board of health, of the provisions of this act, within their respective districts. They shall make an immediate report to the state board of health, of any violation of this law coming to their knowledge, and thereupon said state board of health shall have authority to investigate the same by agent or otherwise, and all registrars shall aid, upon its request, said board in such investigation. Such state board may report cases of violation of this act to the prosecuting attorney of the proper county with the statement of the facts and circumstances, and thereupon such county attorney, if in his judgment the evidence is such as to warrant prosecution, shall forthwith initiate the necessary prosecution and conduct the same to as speedy an end as possible.

(d) The body of any person whose death occurs in any primary registration district of this state shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from, or into, any such registration district, until a permit for burial or removal shall have been issued by the registrar

of the registration district in which the death of such person occurred, in accordance with the terms thereof. No burial or removal permit shall be issued by any registrar until a certificate and return of death has been filed with him as hereinafter provided. Transit permits, duly issued, may be accepted by a registrar of any district where the body is to be interred or otherwise finally disposed of, as a basis upon which to issue a local burial permit. In such event, the same shall be plainly entered on a copy of the record which such registrar shall transmit to the state board of health.

(e) Still-born children, or those dead at birth, shall be registered as births and also as deaths, and a certificate of both the birth and death shall be filed with the local registrar in the usual form and manner, the certificate of birth to contain in place of the name of the child, the word "still-birth." The medical certificate of the cause of death shall be signed by the attending physician, if any, and shall state the cause of death as "still-born," with the cause of the still-birth, if known; whether a premature birth, and if born prematurely, the period of uterogestation in months, if known; and a burial, or removal permit, in usual form, shall be required. Midwives shall not sign certificates of death for still-born children, but such cases, and still-births occurring without attendance of either physician or midwife, shall be treated as deaths without medical attendance, as provided in subdivision (g) of this section.

(f) The certificate of death shall contain the following items:

(1) Place of death, including state and county, with city, village or township. If in a city, the ward, street and house number. If in a hospital, or other institution, the name of the same to be given instead of the street and house number. If in an industrial camp, the name of same to be given.

(2) Full name of deceased. If an unnamed child, the surname preceded by "unnamed."

(3) Sex.

(4) Color or race—as white, black (negro or negro descent), Indian, Chinese, Japanese or other.

(5) Conjugal condition—as single, married, widowed or divorced.

(6) Date of birth, including the year, month and day.

(7) Age, in years, months and days.

(8) Place of birth—state or foreign country.

(9) Name of father.

(10) Birthplace of father—state or foreign country.

(11) Maiden name of mother.

(12) Birthplace of mother—state or foreign country.

(13) Occupation—The occupation to be reported of any person who had any remunerative employment, women as well as men.

(14) Signature and address of informant.

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(15) Date of death, including the year, month and day.

(16) Statement of medical attendant, time in attendance, fact and time of death, including the time last seen alive.

(17) Cause of death, including the primary and immediate causes, and the sequences of the same, together with contributory causes or complications, if any, and the duration of each.

(18) Signature and address of physician or official making the medical certificate.

(19) Special information concerning death in hospitals and institutions, and of persons dying away from home, including the former or usual residence, length of time at place of death, and place where the disease was contracted.

(20) Place of burial or removal.

(21) Date of burial or removal.

(22) Date when certificate was filed and registered, authenticated by the official signature of the local registrar.

Items 1 to 13 inclusive, shall be authenticated by the signature of the informant, who may be any competent person acquainted with the facts.

Items 15 to 17 inclusive, shall be authenticated by the signature of the physician.

Items 20 to 21 shall be authenticated by the signature of the embalmer or undertaker.

A burial or removal permit shall not be issued upon a certificate containing only a statement of symptoms of disease, or conditions resulting from disease, but any such certificate shall be returned the physician for correction. The cause of the death must be carefully defined, and if from violence, its nature stated. When death occurs in a hospital or other institution, the physician shall furnish the information required under subhead 19.

(g) When any person dies without medical attendance, it shall be the duty of the embalmer or undertaker, to forthwith notify the local registrar of such death, and when so notified such registrar shall issue a burial permit, or refer the matter to the local health officer for immediate investigation and certification, and also if the circumstances of the case render it probable that the death was caused by violence, and not by casualty, shall refer the matter to the coroner. The embalmer or undertaker shall also obtain and file with such registrar, the certificate of death, and secure a burial or removal permit. He shall also obtain the personal and statistical particulars herein required, over the signature and address of his informant, and shall then present the certificate of death to the attending physician, if any, or to the health officer or coroner, as directed by the registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as herein required. He shall then state the date and place of burial, over his signature, and with his address, and present the completed certificate to such registrar within the time limit, if any, designated by the state board of

health. The burial permit shall be delivered to the embalmer, and the embalmer shall deliver such permit to the sexton, or person in charge of the place of burial, before interring the body, and when shipped by any transportation company, shall attach the transit permit to the box containing the corpse; said permit shall accompany the same to the point of destination, to be there delivered to the local registrar of the district in which such interment is made.

(h) If the interment or other disposition of the body is to be made in the registration district in which the death occurred, the wording of the burial permit may be limited to a statement from the registrar, over his signature, that a satisfactory certificate of death has been filed with him as required by law, and permission is therefore granted to inter, or otherwise dispose of the body of the deceased, stating the name, age, sex, cause of death, and other information as required by the state board of health. When the interment or other disposition of the body is to be made in a registration district other than that in which the death occurred, a complete copy of the certificate of death shall be attached to and made a part of the permit. No person shall carry, or accept for transportation, the body of any deceased person without the same being accompanied by a permit in accordance with the provisions hereof, except that in case the death occurred outside of the state and the body is accompanied by a certificate of death, burial, removal or transit permit issued in accordance with the law, or board of health regulations, in force where the death occurred, if any exist therein, such death certificate, burial or removal, or transit permit may be held to authorize the transportation or carriage of the body into or through the state.

(i) No person in charge of any premises in which interments are to be made shall permit the interment of any body unless the same is accompanied by a burial, removal or transit permit as herein provided. Each such person shall endorse upon such permit, the date of the interment, over his signature, and shall return all permits so endorsed to the local registrar of his district within ten (10) days from the date of interment. Such person shall also keep a record of all interments made in the premises under his charge, stating the name of the deceased person, place of death, date of burial, name and address of the embalmer, which record shall at all times be open to public inspection. Any person wilfully violating any provision of this paragraph shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty (20) dollars, nor more than one hundred (100) dollars, or be imprisoned in the county jail for not less than ten (10) days, nor more than ninety (90) days.

(j) The certificate of birth shall contain the following items:

(1) Place of birth, including state and county, together with city, village or township. If in a city, the ward, street and house

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number. If in a hospital, or other institution, the name of the same to be given instead of the street and house number.

- (2) Full name of child.
- (3) Sex.
- (4) Color or race—as white, black (negro or negro descent), Indian, Chinese, Japanese or other.
- (5) Condition—as twins, illegitimate, etc.
- (6) Date of birth, including year, month and day.
- (7) Full name of father, with age.
- (8) Birthplace of father—state or foreign country.
- (9) Occupation of father.
- (10) Maiden name of mother, with age.
- (11) Birthplace of mother—state or foreign country.
- (12) Occupation of mother.
- (13) Number of child of this mother, and number of children of this mother now living.
- (14) Signature and address of attending physician or mid-wife.
- (15) Signature and address of informant.
- (16) Signature and address of reporting official.
- (17) Date when certificate was filed and registered.

(k) No person shall wilfully alter any certificate of birth or death, or any copy of the same, after the same is filed in the office of the local registrar. Any person who shall violate any provision of this paragraph shall be guilty of forgery in second degree.—R. L. 1905, § 2140, as amended G. L. 1907, Chap. 454, § 1.

§ 521. **Fees.**—For obtaining and returning the information required concerning each birth and death, the local registrar or his deputy shall receive twenty-five (25) cents from the county upon presentation of a voucher for the amount due. On or before March first (1st) of each year, the secretary of the state board of health shall transmit to the clerk of the district court of each county a record of all the returns received by him during the preceding year from the local registrars of such county with his certificate showing the whole number of births and deaths reported during such year by each local registrar. Said clerk shall thereupon file the same in his office and shall issue to each local registrar or his deputy a voucher showing the amount due him for the aforesaid services, as shown by the certificate of said secretary. The said clerk shall record the said births and deaths in his office, in books to be procured at the expense of his county. The fee for recording each of said births and deaths shall be ten (10) cents. Provided, however, that in cities of over 100,000 inhabitants the local registrar shall perform all such duties without any charge therefor, and in counties having a city of over 100,000 inhabitants such district court clerk shall not issue any such voucher to the local registrar of such a city, nor shall such clerk receive any compensation for any of the duties herein required in

connection with birth or death records in such a city.—R. L. 1905, § 2141, as amended G. L. 1907, Chap. 454, § 1, as amended G. L. 1909, Chap. 23.

§ 522. **Penalties.**—Any person who shall violate any of the provisions of this act, or shall refuse or neglect to perform any duties imposed upon him thereby, for the punishment of which no other provision is made herein, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten (10) dollars, nor more than one hundred (100) dollars, or imprisonment for a period not to exceed sixty (60) days. Fines collected for any violation of the provisions of the foregoing, shall be paid into the treasury of the county where the offense was committed, and there credited to the general revenue fund of said county.—R. L. 1905, § 2141, as amended, G. L. 1907, Chap. 454, § 2.

§ 523. **Parents and others to report.**—Parents shall give such notice and information as the rules of the board may require of the birth or death of their children. All householders, all keepers of hotels, hospitals, and infirmaries, and all heads of charitable, penal or reformatory institutions, shall give like information of births and deaths occurring in their respective places. And every physician and every midwife shall report the births or deaths of persons under their care within ten days thereafter. Every person failing to comply with any provision of this section shall be guilty of a misdemeanor.—R. L. 1905, § 2142.

§ 524. **Offensive trades.**—No person, without the written permission of the board of health of the town, village, or city, shall engage therein in any trade or employment which is hurtful to the inhabitants, or dangerous to the public health, or injurious to neighboring property, or from which noisome odors arise. Any person so doing shall forfeit \$50 for each day on which such trade or employment is exercised, to be recovered by the local board of health by suit in its name and for its benefit.—R. L. 1905, § 2143.

§ 525. **Assignment of places, etc.**—Such local boards, from time to time, may designate places within their respective jurisdictions wherein such trades or employments may be carried on, by orders filed with the town, village, or city clerk, and may revoke the same by like orders. Within 24 hours after written notice of any such revocation, every person exercising such trade or employment in the locality to which it relates shall cease to do so, or forfeit \$100 for each day thereafter on which the same is continued, to be recovered as provided in the preceding section.—R. L. 1905, § 2144.

§ 526. **Appeal—Procedure.**—Within five days after service of such notice, any party aggrieved by an order made under the preceding two sections may appeal therefrom to the district court of the county, by giving notice of appeal as in other cases, together with a bond of not less than \$500, to be approved by the

judge of said court, conditioned for the prosecution of such appeal to judgment and for payment of all costs and expenses that may be awarded against such appellant. If such appeal be taken within 20 days before the time for holding any general term of said court within said county, it shall be heard at such time, and, at either party's request, may be tried by a jury; if taken more than 20 days before any such term, the judge shall appoint a time and place for hearing the same, and, if demanded, direct the sheriff of said county to summon a jury of 12 persons to serve in said cause, any of whom may be challenged as in civil cases, and talesmen may be called and said appeal tried as in other civil cases. During the pendency of such appeal such trade or employment shall not be exercised contrary to the order of said board, and upon violation of any such order the appeal shall forthwith be dismissed. Upon the return of the verdict the court may either alter or amend the order of the board or confirm or amend it in full, to conform to such verdict. If the matter be tried by the court, it shall have and exercise the same power.—R. L. 1902, § 2145.

§ 527. **State board—Powers—Appeal.**—Upon written complaint made to the state board that any person is occupying or using any building or premises within any town, village or city, for the exercise of any such trade or employment, it shall appoint a time and place for hearing and give notice of not less than 10 days to the complainant and the person complained of, and after such hearing, if, in its judgment, the public health or comfort and convenience require, it may order such person to cease from further carrying on such trade or employment in such building or premises; and after written notice of such order, any person thereafter exercising such trade or employment in said building or premises, shall forfeit \$100 for each day after the first, to be recovered as provided in the preceding sections. Any person aggrieved by such order may appeal, and said appeal shall be taken and determined, in the same manner as prescribed in Section 2145 (§ 526) herein. During its pendency such trade or employment shall not be exercised contrary to the orders of the state board, and upon the violation of any such order the appeal shall forthwith be dismissed.—R. L. 1905, § 2146.

§ 528. **Pollution of water.**—No sewage or other matter that will impair the healthfulness of water shall be deposited where it will fall or drain into any pond or stream used as a source of water supply for domestic use. The State Board of Health shall

Note to § 526.—Persons or corporations aggrieved by any order as to offensive trades may appeal to the district court of the county, and such appeal may be tried by jury, but the objectionable trade cannot be exercised contrary to the order during the pendency of such appeal.

Any person injured by the exercise of any such offensive trade may maintain an action for such damages. When it appears, on trial before the district court, that any place assigned for an offensive trade has become a nuisance (see § 533) or is otherwise hurtful or dangerous to the neighborhood or to travelers, the court may revoke the assignment and prohibit the exercise of such trades and cause such nuisance to be removed or prevented.

have general charge of all springs, wells, ponds, and streams so used, and shall take all necessary and proper steps to preserve the same from such pollution as may endanger the public health. In case of violation of any of the provisions of this section, the state board may, with or without a hearing, order any person to desist from causing such pollution, and to comply with such direction of the board as it may deem proper and expedient in the premises. Such order shall be served forthwith upon the person found to have violated such provisions.—R. L. 1905, § 2147.

§ 529. **Appeal—Procedure—Power of courts.**—Within 5 days after service of such order, any person aggrieved thereby may appeal to the district court of the county on which said polluted source of water supply is situated; and such appeal shall be taken, prosecuted and determined in the same manner provided in Section 2145 (§ 526), of this chapter. During the pendency of such appeal, the pollution against which the order has been issued shall not be continued, and upon violation of such order the appeal shall forthwith be dismissed.—R. L. 1905, § 2148.

§ 530. **Other remedies preserved.**—Nothing in the preceding six sections shall curtail the power of the courts to administer the usual legal and equitable remedies in cases of nuisances or of improper interference with private rights.—R. L. 1905, § 2149.

§ 531. **Salaries and expenses—Employees.**—The secretary of the state board shall receive a salary of \$2,500 per year, and such additional sum as the board may deem necessary; also all expenses necessarily incurred by him in the performance of his duties. The members of the board shall receive no compensation as such, but the necessary expenses of their attendance upon its meetings shall be reimbursed. The board may employ, and at pleasure dismiss such agents, experts, and other assistants as it may deem necessary, and may fix their compensation, prescribe their duties, and allow their necessary expenses. All such salaries, compensation, and expenses shall be paid by the state, upon vouchers approved by at least two members of the board; but the total for any year shall not exceed the appropriations of the year therefor.—R. L. 1905, § 2150.

§ 532. **Annual appropriation.**—For paying the compensation and necessary expenses of the members, officers, and employees of the state board of health, and defraying all the expenses incurred by the board in the performance of its duties, the sum of \$9,500, or so much thereof as may be necessary, is hereby appropriated annually.—R. L. 1905 § 2151.

TITLE III.—OFFENSES AGAINST PUBLIC HEALTH AND SAFETY.

§ 533. **Public nuisance defined.**—A public nuisance is a crime against the order and economy of the state, and consists in unlawfully doing an act or omitting to perform a duty, which act or omission:

1. Shall annoy, injure, or endanger the safety, health, comfort, or repose of any considerable number of persons;

2. Shall offend public decency;

3. Shall unlawfully interfere with, obstruct or tend to obstruct or render dangerous for passage, a lake, navigable river, bay, stream, canal, or basin, or a public park, square, street, alley, or highway; or

4. Shall in any way render a considerable number of persons insecure in life or the use of property.—R. L. 1905, § 4987. See also § 1168 to § 1220 inclusive, Part II.

§ 534. **Obstructing health officer.**—Every person who shall willfully oppose or obstruct a health officer or physician charged with the enforcement of the health laws in performing any legal duty, shall be guilty of a misdemeanor.—R. L. 1905, § 4990.

§ 535. **Willful violation of health laws.**—Every person who shall willfully violate any provision of the health laws, the punishment for which is not specially provided for therein, shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not more than \$2,000, or both.—R. L. 1905, § 4991.

§ 536. **Adulteration or imitation of goods, etc.**—Every person who, with intent that the same may be sold as unadulterated or undiluted, shall adulterate or dilute wine, milk, distilled spirits, or malt liquors or any drug, medicine, food or drink for man or beast; or shall offer for sale or sell the same as unadulterated or undiluted, or without disclosing to or informing the purchaser that the same has been adulterated or diluted; or shall manufacture, sell, expose, or offer for sale, as such article of food or drink, any substance in imitation thereof, without disclosing the imitation by a suitable and plainly visible mark or brand; or with intent that the same may be used as food, drink or medicine, shall sell, offer or expose for sale, any article whatsoever which to his knowledge has become spoiled, tainted, or for any cause unfit to be used as food, drink or medicine, where special provision has not otherwise been made by statute for its punishment, shall be guilty of a misdemeanor, and punished by a fine of not less than \$25, or by imprisonment in the county jail for not less than 30 days.—R. L. 1905, § 4993.

§ 537. **Sale of unwholesome poultry, etc.**—Every person who shall offer or expose for sale at retail, for human food, at any public market, store, shop, or house, or in or about any street or other public place, any domestic or wild fowls, or any slaughtered rabbits, squirrels or other small animals, wild or tame, unless the entrails, crops and other offensive parts are properly drawn and removed, shall be guilty of a misdemeanor.—R. L. 1905, § 4994.

§ 538. **Protection of meat, etc.**—Every dealer in slaughtered fresh meats, fish, fowl, or game for human food, at wholesale or retail, at any established place or as a peddler, in the transportation of such food from place to place to customers, shall pro-

tect the same from dust, flies and other vermin or substance which may injuriously affect it, by securely covering it while being so transported. Every violation of the foregoing provision shall be a misdemeanor, punishable by a fine of not less than \$10.00 or by imprisonment in the county jail for not less than 10 days.—R. L. 1905, § 4995.

§ 539. **Deposit of unwholesome substances.**—Every person who shall deposit, leave, or keep, on or near a highway or route of public travel, on land or water, any noisome or unwholesome substance; or who shall establish, maintain, or carry on, upon or near a highway or route of public travel, on land or water, any business, trade, or manufacture, which is noisome or detrimental to the public health; or who shall deposit or cast into any lake, creek, or river, wholly or partly in the state, or shall deposit upon the ice of any such lake, creek or river, the offal from, or the dead body of, any animal, shall be guilty of a gross misdemeanor, and punished by a fine of not less than \$100, or imprisonment in the county jail, for not less than three nor more than six months.—R. L. 1905, § 5007.

§ 540. **Exposing person with contagious disease.**—Every person who shall willfully expose himself or another affected with any contagious or infectious disease, in any public place, or thoroughfare, except upon his necessary removal in a manner not dangerous to the public health, shall be guilty of a misdemeanor.—R. L. 1905, § 5008.

§ 541. **Impure water.**—Every owner, agent, manager, operator, or anyone having charge of any waterworks, furnishing water for public or private use, who knowingly permits the appliances of the same to become in a filthy condition, or in such condition that the purity and healthfulness of the water supplied by reason thereof becomes impaired, shall be guilty of a felony, and punished by imprisonment in the state prison for not more than ten years.—R. L. 1905, § 5009.

TITLE IV.—SUBJECTS FOR DISSECTION.

§ 542. **Delivery of bodies to medical schools.**—Except as otherwise provided in the following section, the bodies of all persons dying within the state, and not claimed for burial within 36 hours after death, shall be delivered, by the person in charge thereof, for purposes of anatomical study. The deans of the medical colleges of the state shall appoint a committee to receive such bodies, which committee shall apportion the same to the several colleges according to the number of their students. Any body so received shall be surrendered on demand of a relative entitled to its possession. The remains of any such body, after it has answered the purposes aforesaid, shall be decently buried in a public cemetery, and the expense of transporting and burying such body shall be borne by the college receiving the same.—R. L. 1905, § 2152.

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§ 543. **What bodies excepted.**—No body shall be so delivered:

1. After it has been regularly interred;
2. After it has been claimed for burial or cremation by any person entitled to receive it for such purpose;
3. Without the consent of all known relatives of the person deceased;
4. If such person, in his last sickness, requested that his remains be buried;
5. If he died while detained as a witness, or under suspicion of crime; or
6. If by any provision of law another disposition thereof be required.—R. L. 1905, § 2153.

§ 544. **Violations—Penalties.**—Every official or other person in possession or control of any such body shall forthwith notify the committee and deliver the same according to its request. If he fail to do either within a reasonable time, he shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of twenty-five dollars. Every person who shall use any such body for a purpose other than that contemplated herein, or who shall remove it from the state, or in any manner traffic therein, or refuse to deliver the same upon proper demand, shall be guilty of a gross misdemeanor.—R. L. 1905, § 2154.

§ 545. **Embalming dead bodies—License.**—No person shall embalm any dead human body in the state of Minnesota without being licensed by the state board of health, as hereinafter provided.—G. L. 1905, Chap. 101, § 1.

§ 546. **Applicant for license to be examined.**—The state board of health of the state of Minnesota is hereby authorized and empowered to examine all applicants for license to practice embalming, and to determine whether or not such applicants possess the necessary qualifications to properly embalm dead human bodies: and, if upon such examination, said board shall determine that such applicant is properly qualified to embalm dead human bodies, it shall grant a license to such person to embalm human dead bodies for a period ending the thirty-first (31st) day of July following.—G. L. 1905, Chap. 101, § 2.

§ 547. **Qualifications of applicant—Fee.**—The applicant for license shall at the time of application pay a fee of five (5) dollars. No person shall be granted any such license unless he shall, in addition to other qualifications, be at least twenty-one (21) years of age, of good moral character, and shall have for at least one year had practical experience in embalming.—G. L. 1905, Chap. 101, § 3.

§ 548. **Embalmers already licensed—Expiration and renewal.**—Any person now holding a license from the state board of health as an embalmer shall be held to be licensed as an embalmer under the terms of this act, but all such licenses shall expire July thirty-one (31st) next. Any license may be renewed from time to time

and shall be in force after such renewal for a period of two (2) years from the thirty-first (31st) day of the preceeding July, upon the payment of a renewal fee of one (1) dollar.—G. L. 1905, Chap. 101, § 4.

§ 549. **State board may revoke license.**—The state board of health may revoke any license granted, or may refuse to grant or renew a license upon proof of the violation by the holder of such license or the applicant for such license or renewal of the rules of the state board of health concerning the care, custody or disposition of dead human bodies, or the disinfecting of premises where contagion exists, or for want of moral character or of capacity.—G. L. 1905, Chap. 101, § 5.

§ 550. **Embalming without license—Penalty.**—Any person who shall embalm a dead human body, or who shall hold himself out as an embalmer thereof without being licensed as herein provided, shall be guilty of a misdemeanor, and upon conviction shall be liable to a fine of not less than twenty-five (25) dollars or more than a hundred dollars, or imprisonment for a period of not to exceed three (3) months.—G. L. 1905, Chap. 101, § 6.

TITLE V.—LIVE STOCK SANITATION.

§ 551. **Sanitary board—Organization—Secretary and assistants.**—The state live stock sanitary board, hereinafter called the board, or the state board, shall consist of five members, appointed by the governor, each for the term of five years and until his successor qualifies. Three shall be persons financially interested in the breeding of live stock in the state; and the other two, practicing veterinarians and graduates of a regularly organized and recognized veterinary college. Appointments to fill unexpired terms shall be made from the classes to which the retiring members belonged. The board shall elect a president and a vice-president from among their number; also a veterinarian and graduate of a regularly organized and recognized veterinary college, not a member, to be its secretary and executive officer for a term of one year and until his successor qualifies. It may also employ, and dismiss at pleasure, an attorney and such other assistants as may be necessary in the performance of its duties. The compensation of the secretary and of the several employees shall be fixed, and their duties prescribed, by the board. No member of the board shall receive any compensation for services as such, or as an employee thereof, but the expenses of each, necessarily incurred in the discharge of his duties, shall be paid by the state.—R. L. 1905, § 2155.

§ 552. **Duties—Rules—Meetings—Annual report.**—The board shall protect the health of the domestic animals of the state, and carry out the provisions of this chapter, employing such means and making such rules and regulations as it may deem expedient to that end. It shall hold quarterly meetings at the seat of government on the first Friday after the second Tuesday in January,

April, July and October. Officers shall be elected at the April meeting. The board shall report its proceedings and recommendations to the Governor annually, which report shall be published by the state.—R. L. 1905, § 2156.

§ 553. **Duty of local boards of health.**—All local boards of health shall assist the live stock board in the prevention, suppression, control, and eradication of contagious and infectious dangerous diseases among domestic animals whenever directed so to do by the secretary or any member thereof. Two or more local boards may be required in emergencies to co-operate in rendering such assistance. When the rules of any local board conflict with those of the state board, the latter shall prevail.—R. L. 1905, § 2157.

§ 554. **Authority of boards, etc.**—The board, and also the local boards within their respective jurisdictions, may quarantine or kill any domestic animal infected with, or which has been exposed to, any such disease; but, before killing an animal solely on the ground that it has been exposed, a local board shall procure the authority of the state board. Said boards may regulate or prohibit the arrival in and departure from the state of animals so infected or exposed, and in case of violation of any such regulation or prohibition, may detain any animal at its owner's cost. The state board may regulate or prohibit the bringing of domestic animals into the state, which, in its opinion, for any reason, may injure the health of live stock therein. All rules and regulations adopted by the board or by any local board under authority of this act shall be recorded in its minutes, and one week's published notice thereof shall be given.—R. L. 1905, § 2158.

§ 555. **Reporting disease—Compelling testimony.**—Every person who knows or has reason to suspect that a contagious or infectious disease exists in any domestic animal shall immediately notify the local board of health. Within twenty-four hours after such board shall receive notice or have knowledge that any such animal is infected with, or has been exposed to, such disease, it shall give written notice thereof to the state board. Said board, or any member or authorized agent thereof, may examine under oath all persons believed to have knowledge of the existence or threatening of disease among domestic animals, and for this purpose may take depositions and compel witnesses to attend and testify.—R. L. 1905, § 2159.

§ 556. **Killing—Owner to be notified—Autopsy—Appraisal.**—Whenever any board shall decide upon the killing of an animal, it shall notify the owner of such decision. Within twenty-four hours after notice, the owner or his agent may file with such board a protest, stating therein, under oath, that, to the best of his knowledge and belief, the animal is not infected with any contagious or infectious dangerous disease. Thereupon, if the animal be killed, an autopsy shall be held by three experts—one appoint-

ed by the state board, one by the owner, and the third by the first two. If the autopsy show that the animal was entirely free from any such disease, the cash value thereof immediately before the killing shall forthwith be appraised by such experts, and the amount thereof shall be paid to the owner by the state. The experts shall report forthwith, in writing, and the report shall be filed with the secretary of the state board. If an animal be killed by order of the state board for the sole reason that it has been exposed to contagion or infection, the foregoing provisions as to autopsy, appraisal, and payment shall apply, and no protest need be filed.—R. L. 1905, § 2160.

§ 557. Tuberculosis and glandered to be killed and paid for.—Whenever the state live stock sanitary board shall decide upon the killing of an animal affected with the disease tuberculosis or glanders, it shall notify the owner or keeper of such decision when in the judgment of the state live stock sanitary board such animal may be ordered transported for immediate slaughter by the said board, through its executive officer, to any abattoir within the state where the United States bureau of animal industry maintains inspection, and said live stock sanitary board shall pay the expense of said transportation and yardage. Before being removed from the premises of owner there shall be appointed three (3) competent disinterested men, one appointed by the state, one by the owner and a third by the first two, to appraise such animal at its cash value. Such appraisal shall in no case exceed thirty-five dollars (\$35) for a cow and seventy-five dollars (\$75) for a horse, except in the case of pure bred cattle and horses where the pedigree shall be proved by certificates of register from the herd books where registered, and in that case the maximum appraisal shall not exceed seventy-five dollars (\$75). If upon slaughter such animal is found by the inspector in charge of such abattoir, or veterinarian of the state live stock sanitary board, to be free from any contagious or infectious disease, then the full amount of such appraisal, less the value of the carcass, shall be paid to the owner of such animal from the funds hereby appropriated for the purpose of carrying out this act. But if upon postmortem examination such animal shall be found to be affected with tuberculosis or glanders, then and in that case the value of the carcass shall be deducted from the appraised value of the living animal; three-fourths ($\frac{3}{4}$) of the remainder shall be paid to the owner by the state, provided the animal has been kept for one year in good faith in the state prior to the killing thereof. The owner or keeper may file with the board which has ordered the killing, within forty-eight (48) hours after being notified, a protest stating therein under oath that to the best of his knowledge and belief the animal is not infected with tuberculosis or glanders; blank protest shall be furnished owner by the board which has ordered such killing. Thereupon, if the animal be killed, an autopsy shall be held by three (3) experts, who

shall be graduate veterinarians of a recognized college, one appointed by the state board, one by the owner, to be paid by the owner, and the third by the first two, to be paid by the state, who shall appraise such animal before it is killed at its cash value, and the autopsy shall then be held upon such animals by the above mentioned veterinarians. If the autopsy shows that the animal is entirely free from any such disease the full cash value thereof immediately before the killing shall be paid to the owner by the state, less the value of the carcass, but if found to be diseased, the owner shall be paid the three-fourths value, as hereinbefore provided. The appraisement made under this act shall be in writing and signed by the appraisers and certified by the local board of health, and the state live stock sanitary board respectively to the auditor of the state, who shall draw a warrant on the state treasurer for the amount thereof. When cattle have been bought in good faith for slaughtering purposes by butchers, who are retail dealers, and the carcasses thereafter found to be infected with tuberculosis, it shall be the duty of the local board of health to appoint three (3) disinterested persons to appraise the value of said carcass, and the owner of said carcass shall be entitled to receive from the state two-thirds (2-3) of the amount of such appraisement, and the hide shall also be returned to him; provided, however, that this provision shall not apply to a slaughtering or packing house that has a state or United States government inspection system.—G. L. 1905, Chap. 115, § 1, as amended, G. L. 1909, Chap. 401.

§ 558. **Tuberculosis and glandered animals to be paid for.**—Notwithstanding any provision of this chapter to the contrary, neither tuberculous cattle nor glandered horses shall be killed as such until they have been inspected by a veterinarian appointed by the state board, and are pronounced by him to be so diseased. And whenever any animal is killed because it is afflicted with either of said diseases, its cash value immediately before the killing, and the cash value of the carcass, if any, shall be fixed within 24 hours thereafter, by appraisers chosen in the manner prescribed in the preceding section. The value of the carcass shall be deducted from that of the living animal, and three-fourths of the remainder shall be paid to the owner by the state: Provided, that in no case shall the appraised value of a glandered horse exceed \$75, nor that of a tuberculous cow \$35, nor shall any such animal be so appraised or paid for unless it be at least one year old, and have been, in good faith, owned and kept within the state for one year next before the killing.—R. L. 1905, § 2161.

§ 559. **Expenses of appraisal.**—The expense of autopsies and appraisals shall be defrayed by the state, except that, in cases of protest where the animal is found infected, the charges of the expert appointed by the owner shall be paid by him. The compensation of experts and appraisers shall be fixed by the state board, which board shall approve, before payment, all claims made under

this chapter. No employee of the board shall receive any fee for acting as an expert or appraiser.—R. L. 1905, § 2162.

§ 560. **Expenses of killing, etc.—Lien.**—The expense of killing and burial or destruction of a diseased animal, when the killing was ordered by any board, shall be borne by the town or incorporated place where the animal was kept. The expense of quarantine, when the animal is taken from the possession of its owner, shall be defrayed, four-fifths by the state, and one-fifth by the town or place. When such quarantined animal is left upon the premises of its owner or keeper, he shall bear the expense. When an animal is quarantined while being shipped into the state, the expense shall be borne by the owner or keeper. Whenever the owner or keeper of any animal becomes liable for any expense incurred by any board under this act, the board shall have a lien on such animal therefor, and may also maintain an action for the amount.—R. L. 1905, § 2163.

§ 561. **Notice by owner—Penalty.**—During the prevalence among domestic animals of any of the diseases referred to in this chapter, any owner or keeper of such animals may post upon the premises a notice forbidding all persons to enter any building or enclosure thereon in which animals are kept; and thereafter no person shall so enter, except a member or agent of the state board or of a local board of health. Every person violating the provisions of this section shall be guilty of a misdemeanor.—R. L. 1905, § 2164.

§ 562. **Offenses and penalties.**—Every person violating any provision of this chapter, or any rule or regulation made hereunder by the state board or any local board of health, or any order made by either under the authority of this chapter, shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of \$25, or imprisonment for thirty days. Any member of a local board who shall neglect or refuse to perform any duty imposed upon him by the provisions of this chapter or by the directions of the state board, or neglect or refuse to enforce the rules and regulations of said state board or the rules and regulations of a local board made hereunder, shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of \$25; and each day's neglect or refusal to perform any duty imposed upon him under this chapter shall constitute a separate and distinct offense.—R. L. 1905, § 2165.

CHAPTER XVI.—INSPECTION OF FOOD AND OTHER ARTICLES.

TITLE I.—DAIRY AND FOOD COMMISSIONERS.

§ 563. **Dairy and food commissioners.**—The governor shall appoint a Dairy and Food Commissioner whose term of office shall extend to the first Monday in January of the odd-numbered year next after his appointment and until his successor qualifies; but the governor may supersede such commissioner at pleasure. He shall cause to be enforced all the provisions of this chapter and all other laws designed to prevent fraud and deception in the manufacture and sale of human food and drink and the several ingredients thereof, and shall have authority to take all proper educational measures to foster and promote the manufacture and sale of pure food products. All appointees hereunder shall be qualified electors of this state. The commissioner shall be a practical dairyman; the assistant commissioner, chemists, inspectors and all agents and other persons appointed by the commissioner shall be practical men and especially trained and equipped for their particular lines of work. He shall report on or before the fifteenth day of each session of the legislature concerning his official acts, showing receipts and disbursements of his office, and may issue public bulletins of information from time to time.—R. L. 1905, § 1734.

§ 564. **Assistant—Employees—Salaries.**—He shall receive a salary of \$2,600 per annum and shall be allowed the expenses necessarily incurred by him in the discharge of his duties. He may appoint an assistant examiner at a salary of \$1,800 per annum; a secretary at a salary of \$1,500 per annum; one chief chemist at a salary of \$2,400 per annum; and, when needed an assistant chemist or chemists each at a salary not to exceed \$100 per month, and such number of inspectors as may be necessary at not to exceed \$100 per month. The expenses necessarily incurred by such subordinates shall be allowed and paid in addition to salary. He may employ necessary legal counsel. The expenses properly incurred by him and his appointees shall be paid by warrant of the state auditor upon itemized accounts thereof approved by him or his assistant. The total expenses of the office, including salaries and compensation of all employees, shall not exceed in any fiscal year the appropriation made therefor plus the amount allowed by law to the commission from moneys received from licenses, fines and articles confiscated and sold under this chapter. The provisions of this section shall not be construed in any way to repeal the provisions of Chapter 300 of the Laws of 1905.—R. L. 1905, § 1735, as amended, G. L. 1907, Chap. 236, as amended, G. L. 1909, Chap. 428, § 1.

§ 565. **Right of inspection.**—For obtaining information regarding suspected violations of law, the commissioner and his employees shall have access to all places where any article of food or other article, the manufacture or sale of which is restricted, regulated or prohibited by this chapter, is or may be manufactured, prepared, stored, kept for sale, or sold, or where cows or other animals are pastured or stabled; to cars or other carriages used for transportation of such articles or animals, and to places where food is or may be cooked, prepared, sold, or kept for sale, to or for the public, or distributed as a part of the compensation of servants and agents, including public and private hospitals, lumber and railroad camps, inns, boarding and eating houses, drinking places, dining cars, boats and other places where any of said articles may be sold, and they may inspect any package or receptacle found therein apparently containing any article of food or ingredient thereof, or any other article the manufacture or sale of which is restricted, regulated or forbidden by this chapter, and may take samples therefrom for analysis. Any person obstructing such entry for inspection, or failing upon request to assist therein, shall be guilty of a misdemeanor.—R. L. 1905, § 1736.

§ 566. **Office—Reports.**—Rooms shall be provided in the capitol for the office and laboratory of the commissioner. He may require reports from persons engaged in the manufacture or sale of dairy products, and all owners or operators of creameries and cheese factories shall on March 1 in each year, and at such other times as he may fix, send to him a full and accurate report of the amount of business done during the year preceding, together with such other statistical information as he may require.—R. L. 1905, § 1737.

§ 567. **Definitions—Evidence of intent.**—The word “person” as used in this chapter, shall be construed as including a co-partnership, association, or corporation, and no person who shall commit or assist in committing any offense herein defined shall be exempt from punishment therefor for the reason that he acted as the agent, employee, or representative of another. The words “sell” and “sale,” as used herein, shall be construed as including the offering or exposing for sale or exchange of the prohibited article, the having of any such article in possession with intent to sell or exchange the same, and the storing, carrying, or handling thereof in aid of traffic therein, whether done or permitted in person or through others. The term “food” shall be construed as including all articles, single, mixed or compound, and howsoever prepared, which are used, or designed or offered for use by man for or in food, drink or condiment. The having in possession of any article, the sale or use of which is prohibited by this chapter, shall be deemed prima facie evidence of intent to sell or use the same in violation of law.—R. L. 1905, § 1738.

§ 568. To prevent the sale of unwholesome substance for use of food—Seizure.—No person shall deal in or sell for use as food any filthy, decomposed, diseased or otherwise unwholesome food or dairy products, either in a natural state or in any manufactured, mixed or prepared condition; and if any of the aforesaid unwholesome articles or substances be found offered or exposed for sale, or had in possession with intent to sell, for use as food, the dairy and food commissioner, his assistant and employees shall have power and authority to seize the same, or in his or their discretion to render the same unsalable for use as food; and the said commissioner and his several employees shall be exempt from liability for any such action; and the test as to the unwholesomeness for use as food of any of the aforesaid articles or substances shall be the condition at the time of such discovery. Every violation of the provisions of this act shall be deemed a misdemeanor the punishment whereof shall be a fine of not less than fifty dollars or imprisonment for not less than sixty days.—G. L. 1907, Chap. 384, § 1.

§ 569. Powers of dairy and food commission—Evidence.—The state dairy and food commissioner, and his several employees, shall enforce the provisions of this act and in so doing shall have the powers and authority which are conferred upon them and each of them by chapter 21, Revised Laws 1905; and the words "person," "sell" and "food," as used in this act, shall be construed as provided in section 1738 (§ 567), Revised Laws 1905, and laws subsequent thereto; and the having in possession of any article or substance the sale of which is prohibited by this act shall be deemed prima facie evidence of an intent to violate the law. In the enforcement of this act the said commissioner and his several employees shall, in addition to those hereby conferred, have the powers of a constable, and seizures may be made hereunder without a warrant, but as soon as practicable after discovery of such unwholesome article or substance the official making such discovery shall cause the arrest and prosecution of the person in whose possession such article or substance be found. When necessary, a search warrant may be issued as in the case of stolen property, the form of complaint and warrant being adapted to the purposes of this act. The search warrant shall be directed to the sheriff or any constable of the county, and no security for costs shall be required thereon or upon any prosecution under this act. Articles or substances seized hereunder, if found upon the trial to have been kept, exposed, offered or sold in violation of law may be forfeited to the state and be disposed of as directed by the court; and the dairy and food commissioner and his several employees, in rendering as aforesaid any unwholesome article or substance unsalable for use as food, may adopt any reasonable and necessary means in so doing; and the provisions of sections 1736, 1778 and 1779, Revised Laws 1905, (§ § 565, 639 and 640) shall be deemed a part hereof in

the enforcement of this act and for the accomplishing of its purposes.—G. L. 1907, Chap. 384, § 2.

TITLE II.—DAIRY PRODUCTS.

§ 570. **Impure milk and cream.**—No person shall sell unwholesome or adulterated milk or cream. Milk or cream that has not been well cooled and aerated, or to which preservatives of any kind have been added; milk drawn from cows kept in a crowded condition or in places not well ventilated or lighted, or which from any cause are filthy or unsanitary, or from unclean or diseased cows, or those fed with distillery waste, brewers' grains, waste of vinegar or sugar factories, garbage or decayed substances in any form, except ensilage from silos properly managed; milk drawn from cows within fifteen days before, or five days after giving birth to a calf; and milk or cream which has been kept in or near stables where any animal is housed, or in any building attached to such stable, or in any place where bad air exists, and cream taken from unwholesome or adulterated milk, shall be deemed unwholesome and adulterated within the meaning of this chapter. Milk from which any normal ingredient has been abstracted, or milk containing any substance not a normal constituent thereof, or containing more than eighty-seven per cent of water, or containing less than three and five-tenths per cent of butter fat, or containing less than thirteen per cent of total milk solids, and cream in which there is less than twenty per cent of butter fat, or which contains any foreign thickening or coloring substance, or any abnormal ingredient whatsoever, shall be deemed adulterated; nor shall any article of food be manufactured from unwholesome or adulterated milk or cream, except as hereinafter provided. No person producing milk or cream for market or exchange, or for manufacturing the same into articles of food shall feed milch cattle any distillery waste or brewers' grains or the waste of vinegar or sugar factories, or garbage, or any substance which is decayed and unhealthy.—R. L. 1905, § 1739, as amended, G. L. 1909, Chap. 428, § 2.

§ 571. **Adulterated ice cream defined.**—No person shall manufacture or sell adulterated ice cream, and ice cream shall be deemed adulterated:

1. If it be made from or contain impure milk or impure cream or any unwholesome substance or any coal-tar dye or saccharin or any substance injurious to health; or

2. If it contains less than 12 per cent, by weight, of butter fat; or

3. If it be colored, powdered or treated in any manner whereby damage or inferiority is or may be concealed.—G. L. 1907, Chap. 124, § 1.

§ 572. **Violation made a misdemeanor.**—Every violation of the provisions of this act shall be deemed a misdemeanor the punishment whereof shall be a fine of not less than fifteen dol-

lars or imprisonment for not less than 20 days.—G. L. 1907, Chap. 124, § 2.

§ 573. **Duties of dairy and food commissioner.**—The state dairy and food commissioner, his assistants and employees, shall enforce the provisions of this act and in so doing shall have all the powers and authority with relation thereto that are conferred upon them and each of them by chapter 21, Revised Laws 1905; and the words “person” and “sell,” as used in this act, shall be construed as provided in section 1738, Revised Laws 1905 (§ 567); and having in possession of any article or commodity, the manufacture or sale of which is prohibited by this act, shall be deemed prima facie evidence of an intent to violate the law; and impure milk and impure cream shall, for the purposes of this act, be defined as in section 1739, Revised Laws 1905 (§ 570), or in subsequent laws defining the same; and in any prosecution hereunder the certificate of the dairy and food commissioner’s chemist, when sworn to by such chemist, shall be prima facie evidence of the facts therein stated; and the provisions of sections 1736, 1776, 1777, 1778 and 1779, Revised Laws 1905 (§ § 565, 637, 638, 639, 640) shall be deemed a part hereof in the enforcement of this act and the accomplishing of its purposes.—G. L. 1907, Chap. 124, § 3.

§ 574. **Council in cities to provide for inspection of milk.**—The council of every city in this state, having 10,000 inhabitants or less, may provide for the inspection of milk sold within its limits, and of dairies, and of dairy herds kept for the production of such milk.—G. L. 1909, Chap. 354, § 1.

§ 575. **May appoint dairy inspector.**—The council may appoint a competent licensed veterinarian as city dairy inspector for such city, and said dairy inspector shall once a year inspect all dairies and dairy herds kept for the production of milk sold within the limits of such city.

For each inspection he shall be entitled to a fee of 25 cents for each animal inspected, to be paid by the owner of such animal.

The dairy inspector of such city shall be appointed at the first meeting of the city council after the municipal election in such city and shall hold office until his successor is appointed.—G. L. 1909, Chap. 354, § 2.

§ 576. **Certificate of sanitary condition.**—If the inspector finds that such dairies or dairy herds are in a sanitary and wholesome condition he shall issue to the owner of such dairy or dairy herd a certificate setting forth such facts, which certificate shall be and remain in force for a period of one year after its issuance, and no longer.—G. L. 1909, Chap. 354, § 3.

§ 577. **Violation a misdemeanor.**—Every person who sells or attempts to sell in such city any milk produced by a dairy or dairy herd without having a certificate to the effect that such dairy or dairy herd has been inspected within the preceding year

and is in a sanitary, wholesome and healthy condition, shall be guilty of a misdemeanor.—G. L. 1909, Chap. 354, § 4.

§ 578. **Whey from cheese factories to be pasteurized—Skimmed milk.**—Notwithstanding the provisions of section 1739 (§ 570), milk from which the cream has been removed, if such milk is otherwise wholesome and unadulterated, may be sold as such to makers of skim cheese, as hereinafter defined, and by licensed dealers; but in the latter case only from vessels legibly marked “skimmed milk” in plain, common, black letters upon a light colored background, each letter being at least one inch high and one-half inch wide, and said words being placed on the top or side of such vessel. These requirements, however, shall not apply to skimmed or separated milk delivered to any patron of a creamery who furnishes milk thereto, but all skimmed milk from creameries and all whey from cheese factories so delivered to patrons shall first be pasteurized at a temperature of at least one hundred and eighty degrees Fahrenheit.—R. L. 1905, § 1740, as amended, G. L. 1909, Chap. 428, § 3.

§ 579. **Sales licensed.**—No person shall sell milk or cream in, or to be used in, any municipal corporation, except for the purpose of supplying the same to a butter or cheese factory, without being licensed by the dairy and food commissioner, and the fee for such license shall be \$1 for each place or vehicle from which sale is made. Every such license shall expire May 1 next after its issue; shall be given only to a person owning or leasing the vehicle or place from which sales are to be made, and shall not be transferred. Each license shall be numbered and shall contain the name, residence and place of business of the licensee, the names of all employees to act thereunder, and the number of vehicles and places to be used. The name and number of the license shall be plainly inscribed on both sides of each vehicle in use for the purposes aforesaid, and every sale from a vehicle not so inscribed shall be deemed a misdemeanor. Every licensee shall report to the commissioner any change of driver or person employed by him in connection with such sales which may occur during the term of his license.—R. L. 1905, § 1741, as amended, G. L. 1907, Chap. 337, as amended, G. L. 1909, Chap. 428, § 4.

§ 580. **License revoked.**—The commissioner may withhold a license from any applicant therefor whom he may deem unworthy and may revoke any license issued by him to an owner who has violated the terms thereof, or who has failed to comply with any requirement of this chapter, or refused or failed to obey his lawful request or direction, and every conviction of the licensee for an offense punishable under this chapter shall be sufficient ground for such revocation.—R. L. 1905, § 1742.

§ 581. **Standard measures and tests.**—All milk or cream received or purchased for the purpose of manufacturing the same into butter or cheese shall be received or purchased by weight, and payment therefor shall be upon the basis of the butter fat con-

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tained therein. The standard pipette for measurement of milk shall have a capacity of seventeen and six-tenths cubic centimeters, and the standard pipette for the measurement of cream shall have a capacity of eighteen grams by weight. The standard test tube or bottle for milk shall have a capacity between zero and ten on the graduated scale, marked on the neck thereof, of two cubic centimeters of mercury, at a temperature of 60 degrees Fahrenheit, and for cream a capacity of six cubic centimeters of mercury, at the same temperature, between zero and thirty on the scale. Any person who shall use any other measure or test for milk or cream sold or purchased at prices determined by the proportion of butter fat contained therein; any person who shall manufacture or sell a cream or milk pipette or measure which is not correctly marked or graduated as herein provided; any person who shall use or employ any other appliance than the Babcock test for ascertaining the butter fat content of milk or cream; any person who shall underread, overread or otherwise falsify or manipulate the reading of such test, or who shall falsely state, certify or use in the purchase or sale of milk or cream, a misreading of such test, whether the test or actual reading shall have been made by such person or by any other person, shall be deemed guilty of a misdemeanor.—R. L. 1905, § 1743, as amended, G. L. 1909, Chap. 428, § 5.

§ 582. **Cans to be cleaned.**—Every person delivering milk, cream or ice cream to creameries, cheese factories, common carriers or any other person, persons, firms, companies or corporations, in cans or other vessels, shall have such cans or vessels free from any deleterious substance, filth or rust, and in a wholesome condition for containing such milk, cream or ice cream. Every person receiving milk, cream or ice cream from a common carrier in cans or other vessels which are to be returned to the shipper shall cause such vessels to be promptly emptied and, before returning same, be thoroughly cleansed. No person shall ship or deliver to any manufacturer or dealer any milk or cream that has become sour, unless it be so labeled.—R. L. 1905, § 1744, as amended, G. L. 1909, Chap. 428, § 6.

§ 583. **Custom factories—Records.**—No person engaged in making butter or cheese for others out of cream or milk furnished by them shall withhold or permit to be withheld any part of the cream or milk so furnished, or any product thereof, without the knowledge and consent of the owner. Every maker shall keep a record of all quantities of milk and cream received each day, and from whom received, and the disposition thereof, also of the weight of all cheese and butter made each day, and of the number and aggregate weight of all packages of cheese and butter delivered to those furnishing milk and cream for manufacture or otherwise disposed of. Such records shall be exhibited on request to the commissioner and his employees and to all persons furnishing milk and cream to such maker.—R. L. 1905, § 1745.

§ 584. **Skim cheese—Placards.**—No person shall manufacture for sale or sell as cheese any substance not the exclusive product of milk. Cheese containing less than 45 per cent. of fat to total solids therein shall be known as “skim cheese” and no person shall sell the same unless the words “skim cheese” be plainly lettered thereon in letters made with bold-faced type not less than 1½ inches long, upon the circumference of the cheese, and the same inscription be placed upon the outside of each package in which it is kept for sale or sold; and every person who sells the same or furnishes it to boarders or others for pay shall cause placards to be kept continuously posted in a conspicuous position upon the walls of the room wherein such skim cheese is sold, or served, upon the face of which placards there shall be distinctly and legibly printed in the English language, and in letters of sufficient size to be visible from all parts of the room, the words “Skim cheese sold (or served) here.”—R. L. 1905, § 1746.

§ 585. **Minnesota brands.**—Any person manufacturing in this state cheese above the grade of skim cheese or butter which is wholly and exclusively the product of wholesome and unadulterated milk or cream, may label and sell the same as “Minnesota Full Cream Cheese” or “Minnesota Pure Dairy (or Creamery) Butter,” as the case may be, and may add to such brand or label the name of the county wherein such cheese or butter is made, using for the purpose a numbered stencil brand furnished by the dairy and food commissioner. Such commissioner shall issue to such manufacturer under such regulation as to the custody and use thereof as the commissioner may prescribe uniform stencil brands for such marking; keeping a register of the number of each and of the name and place of residence of the manufacturer receiving the same.

Any person who shall without authority of the commissioner, as aforesaid, use any such brand or label, or any person who shall use such brand or label upon cheese or butter below the grade aforesaid, shall be guilty of a misdemeanor.—R. L. 1905, § 1747.

§ 586. **Inspection of dairies.**—At such times as he may deem proper he shall cause to be inspected all places where dairy products are made, stored, or served as food for pay, and all places where cows are kept by persons engaged in the sale of milk or cream and may require the correction of all unsanitary conditions and practices found therein.

Every refusal or neglect to obey any lawful direction of the commissioner or his agent given in carrying out the provisions of this chapter shall be deemed a misdemeanor.—R. L. 1905, § 1748.

§ 587. **Local inspection.**—The governing authority of any municipal corporation may by ordinance provide for the inspection of milk and butter sold within its limits, and of dairies, and

Note to § 584. See § 633.

dairy herds kept for the production of such milk or butter; and may prescribe the terms upon which such sales may be made and affix penalties for violation thereof; but no such ordinance shall conflict with any law of this state, or interfere with any power or duty of the dairy and food commissioner, or his official subordinates.—R. L. 1905, § 1749.

§ 588. **Dairy and creamery butter.**—No person shall manufacture for sale or sell any dairy or creamery butter which contains more than 16 per cent. of water.—R. L. 1905, § 1750.

§ 589. **Renovated butter.**—No person shall sell any butter made by taking original packing stock, or other butter, or both, and melting the same and drawing off, or extracting the butter fat, and mixing such fat with skimmed milk, or cream, or other milk product, and re-churning or re-working such mixture; or any butter produced by any process, commonly known as boiled, process or renovated butter, unless the words “Renovated Butter” shall be plainly branded with bold faced letters, at least three-fourths of an inch in length, on the top and sides of each receptacle, package or wrapper in which it is kept for sale or sold. And if such butter is exposed for sale uncovered, or not in a receptacle, package, or wrapper, then a placard containing the words “Renovated Butter” printed in style and manner as aforesaid, shall be attached to the mass of butter in such manner as to be easily seen and read by purchasers.—R. L. 1905, § 1751.

§ 590. **Process butter.**—No person shall sell any butter made of part cream and part caseine and other ingredients by what is known as the “Quinness Patent” or process, or that made by other similar processes, whereby the caseine of milk and other ingredients are made to imitate and resemble genuine butter made from cream, unless each package or receptacle in which the same is kept for sale or sold shall be stamped or marked “Patent Butter” on the top and sides thereof, with lamp-black and oil, in letters at least one-fourth of an inch wide, and one-half of an inch long; and in addition to such marking the seller at the time of the sale shall give to the purchaser a printed card, stating distinctly and correctly the different ingredients contained in said compound.—R. L. 1905, § 1752.

§ 591. **Imitating yellow butter.**—The manufacture or sale of oleomargarine, butterine or similarly constituted butter substitute which is made or colored to imitate yellow butter, is prohibited. Every violation of the provision of this section shall be deemed a misdemeanor, the punishment whereof shall be a fine of not less than \$50 or imprisonment for not less than 60 days.—R. L. 1905, § 1753.

§ 592. **Same—Branding.**—Oleomargarine or butterine or similarly constituted butter substitutes may be sold if not in semblance of yellow butter, and if free from prohibited ingredients and otherwise wholesome, provided each wrapper or receptacle

in which the same is kept for sale, or sold, shall be plainly and conspicuously branded by stamp or label with the word "Oleomargarine" or "Butterine," in the English language, in letters not smaller than 36 point, bold-faced Gothic capitals, and provided also, the seller keeps constantly and conspicuously posted on both sides of the room in which the sale is made, a placard, the face of which shall contain plainly printed thereon, in the English language, in black ink, in type not smaller than 6 inches in length, the words "Oleomargarine (or Butterine) sold here."—R. L. 1905, § 1754.

§ 593. **Use of butterine substitutes.**—Every manager or managing agent of any establishment, either public or private, where guests, boarders or patients are served with food for pay, who shall serve or use as butter, or as a substitute therefor any oleaginous substance or compound other than that produced wholly from adulterated milk or cream, shall cause to be plainly printed upon every bill of fare, if one be used, in letters not smaller than 8 point, bold face Gothic capitals, in the English language, the words "Oleomargarine (or butterine or other substitute) used in place of butter;" and in case no bill of fare be used the manager or person in charge of such establishment shall cause to be posted upon each side of the dining or eating room in a conspicuous position and in letters large enough to be distinctly seen and read from all parts of the room, placards containing on the face thereof, the words in the English language, "Oleomargarine (or butterine, or other substitute) used in place of butter." And such person shall keep said placards continuously posted as aforesaid, so long as such butter substitute be kept or used.—R. L. 1905, § 1755.

§ 594. **Dairy products—Preservatives.**—No person shall manufacture for sale, advertise or sell, any mixture or compound designed or offered for sale or use, as an adulterant of, or preservative of milk, butter or cheese; nor shall any person add or apply to milk, butter or cheese, any borax, boric acid, salicylic acid, formaldehyde, formalin or other anti-ferment or preservative: Provided, however, that this section shall not apply to pure salt added to butter or cheese. Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to a fine of not less than fifteen dollars (\$15) nor more than twenty-five dollars (\$25) for each offense.—R. L. 1905, § 1756, as amended, G. L. 1909, Chap. 428, § 7.

§ 595. **Pasteurizing of milk and cream by creameries—Regulations—Labels.**—Any creamery equipped with machinery and appliances for pasteurizing the milk and cream which it receives may apply to the state dairy and food commissioner for an inspection by him of such machinery and appliances; and upon such application made, showing such fact and the wish of the creamery to use such process in the manufacture of butter, the

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state dairy and food commissioner shall cause such inspection to be made.

If such machinery and appliances are sufficient for effective use in so pasteurizing the milk and cream received, the said dairy and food commissioner shall issue a certificate to such creamery, authorizing it so long as it shall keep such machinery and appliances in use and shall pasteurize such milk and cream at minimum temperatures of 140 deg. Fahrenheit for intermittent and 180 deg. Fahrenheit for continuous pasteurization, to label its products, "This product is from pasteurized milk and cream," and such creamery may so label its products so long as it continues to so pasteurize all its milk and cream used in the manufacture of such product.—G. L. 1909, Chap. 353, § 1.

§ 596. **Violation a misdemeanor.**—Labeling contrary to this act shall be a misdemeanor.—G. L. 1909, Chap. 353, § 2.

§ 597. **Testing apparatus operators to secure license.**—No person shall operate a milk or cream testing apparatus duly approved by the dairy and food commissioners to determine the percentage of butter fat in milk or cream for the purpose of purchasing the same, either for himself or another, without first securing a license from the dairy and food commissioner of this state, or from one of his duly appointed assistants or inspectors, authorizing such person to so operate such tester.—G. L. 1909, Chap. 498, § 1.

§ 598. **Application to be made to dairy and food commissioner.**—Any person desiring to secure such license shall make application therefor on a blank to be prepared and provided by the dairy and food commissioner, and such applicant before being issued such license shall pass a satisfactory examination in person and prove by actual demonstration that he is competent and qualified to properly use such tester and make an accurate test with the same.—G. L. 1909, Chap. 498, § 2.

§ 599. **Two years for \$1—Fees to road and bridge fund.**—Such license shall be issued for a period of two (2) years from and after the date of its issuance, and a fee of one dollar (\$1.00) shall be paid for such license by the licensee upon the issuance thereof. The dairy and food commissioner, for just cause, shall have authority to revoke any license issued under the provisions of this act.

The fees collected under the provisions of this act shall be paid into the state treasury monthly by the dairy and food commissioner, and credited to the state road and bridge fund.—G. L. 1909, Chap. 498, § 3.

§ 600. **Violation a misdemeanor.**—Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five (25) dollars or more than fifty (50) dollars, or by imprisonment for not less than thirty (30) days or more than sixty (60) days; and such testing of each lot of milk or cream

by such unlicensed person shall constitute a separate offense unless where such licensed person shall have valid reasons to appoint a substitute, not to exceed three days, subject to the approval of the dairy and food commission.

§ 601. This act shall take effect and be in force from and after January 1st, 1910.—G. L. 1909, Chap. 498, § 4 and § 5.

TITLE III.—OTHER FOODS.

§ 602. **Regulations as to the sale of vinegar.**—Vinegar—The term “vinegar,” as used herein, shall be deemed to include any article or preparation designed or offered for sale or used as vinegar, or as a substitute therefor, or imitation thereof.

No person shall sell as cider vinegar any article or preparation not wholly from pure apple juice.

The manufacture or sale of adulterated vinegar for use in any form in food is prohibited, and any vinegar shall be deemed adulterated—

1. If one hundred (100) cubic centimeters, at a temperature of twenty (20) degrees centigrade, shall contain less than four (4) grams of acetic acid;

2. If it contain any artificial coloring matter; or

3. If it contain any mineral acid, or any acid or product originating from the distillation of wood, or any poisonous metallic impurities, or any substance injurious to health; or

4. If it be cider vinegar and contains less than one and six-tenths (1.6) per centum of cider vinegar solids upon full evaporation at the temperature of boiling water.—R. L. 1905, § 1757, as amended, G. L. 1907, Chap. 347, § 1.

§ 603. **Same—Branding.**—No person shall sell vinegar, unless the receptacle in which it is kept for sale or sold, be plainly and conspicuously marked, in the English language, upon the head thereof by stencil, brand or label, with the name of the kind of vinegar therein contained, its percentage of acetic acid, the name of the substances from which it is made, the name of the maker and the place of manufacture. The size of the letters and the figures in the marking herein required shall be not less than one inch in length, when a barrel or larger size container be used, and when a keg or any wooden receptacle of less than barrel size be used, the size of the letters and figures shall not be less than one-half inch in length; and if the receptacle consists of a bottle, jug or similar container, the data and information herein required shall be plainly printed, in English, with black ink, with type not smaller than eighteen point bold-face Gothic capitals, upon a white label which shall be securely affixed upon the side of such receptacle.—R. L. 1905, § 1758, as amended, G. L. 1907, Chap. 347, § 2.

§ 604. **Liquor—Prohibited ingredients.**—No person shall make, brew, distill, sell or serve, in any form, any adulterated, spirituous, fermented or distilled liquor, and any such liquor shall be deemed adulterated if it contains any of the following

named substances: *Cocculus indicus*, chloride of sodium, cop-peras, opium, extract of logwood, cayenne pepper, picric acid, Indian hemp, strychnine, arsenic, alum, tobacco, salts of zinc, copper or lead, methyl, alcohol or derivatives therefrom, annyl alcohol, coal-tar dye, or any poisonous or injurious ingredient. Every violation of the provisions of this section shall be deemed a misdemeanor, and the first offense hereunder shall be punished by a fine of not less than \$25 or not less than 10 days' imprisonment, and any subsequent offense by a fine or imprisonment which shall be not less than double the minimum herein prescribed for the first offense hereunder.—R. L. 1905, § 1759.

§ 605. **Baking powder.**—Any substance or preparation designed or offered for sale or use as baking powder, or as a substitute therefor, or in imitation thereof, shall for the purposes of this chapter be deemed included in the term "baking powder."

The manufacture or sale of any baking powder, which contains any ingredient injurious to health, is prohibited.

No person shall sell any baking powder unless each receptacle or package in which the same is kept for sale or sold has securely affixed in a conspicuous place upon the side thereof, and plainly separated from other reading matter, a white or light colored label, upon the outside face of which label shall be printed in the English language, with black ink, in type not smaller than 8 point, bold-face Gothic capitals, the words "This baking powder is composed of the following ingredients and none other;" and immediately thereafter upon the same label, in color, style and manner above specified, there shall be printed the name of each ingredient contained in such baking powder, using the name by which each ingredient is commonly known; and there shall also appear upon such label the name and address of the manufacturer of such baking powder.—R. L. 1905, § 1760.

§ 606. **Spices and condiments.**—The words "spice" and "condiment," as used in this chapter, shall be deemed to include every substance known in commerce as a spice or condiment, whether separately or in combination with others, and however prepared, and such words shall also be deemed as including any substance or preparation designed or offered for sale or use as a spice or condiment, or as a substitute for either, or in imitation of either.

The manufacture or sale of any spice or condiment which is itself injurious, or which contains any ingredient injurious to health, is prohibited.

The manufacture or sale of any condiment containing, or prepared with, or by use of vinegar which is adulterated within the meaning of § 1757 (§ 602) is prohibited; and nothing in this section § 1762 (§ 607) shall be deemed to permit the sale of vinegar as a separate condiment if such vinegar be adulterated within the meaning of § 1757 (§ 602).—R. L. 1905, § 1761.

§ 607. **Same—Adulteration.**—The sale of adulterated spices and condiments is prohibited and for the purpose of this chapter a spice or condiment shall be deemed adulterated:

1. If it be mixed or packed with other articles as to decrease its strength or purity; or
2. If any normal constituent thereof has been either in whole or in part abstracted; or
3. If it be an imitation of the article named upon the label; or
4. If it be colored, powdered or treated in any manner whereby damage or inferiority is concealed, or whereby the quality, quantity or value is misrepresented.

No person shall sell any spice or condiment unless each receptacle or package in which the same is kept for sale or sold, shall have securely affixed upon the side thereof a label upon the outside face of which shall be printed in plain, conspicuous, legible type, the net weight of the contents of such receptacle or package; and such label shall also contain the name and address of the manufacturer or packer of such spice or condiment.—R. L. 1905, § 1762, as amended, G. L. 1907, Chap. 237.

§ 608. **Jellies, jams and preserves.**—Pure fruit jelly shall be defined as a preparation consisting wholly of the product contained by evaporating the natural juice of the fruit specified, with or without the addition of cane sugar, and containing no other ingredients.

Pure fruit jam, preserves and marmalade shall each be defined as a preparation consisting wholly of the fruit specified, preserved in a syrup made of cane sugar and pure water, and containing no other ingredients.

If designed or offered for sale or use as, in place of; or in imitation of either fruit jelly, jam, preserves, or marmalade, any substance or preparation, which is not pure within the meaning of the above definitions, shall, for the purposes of this chapter, be deemed and known as a substitute.

The manufacture or sale of any such substitute which contains coal-tar dye, or any ingredient injurious to health, is prohibited.

No person shall sell any such substitute unless each package or receptacle, in which the same is kept for sale or sold, shall have securely affixed in a conspicuous place upon the side thereof, a separate and distinct white label, upon the outside face of which label shall be printed in the English language, with black ink, in type not smaller than 18-point, bold-face Gothic capitals, the words "This preparation is mixed and adulterated;" and there shall also appear upon such label the name and address of the manufacturer of such substitute.—R. L. 1905, § 1763.

§ 609. **Maple sugar and maple syrup.**—Pure maple sugar and pure maple syrup shall each be defined as a product obtained wholly by the evaporation of the natural sap of the sugar maple

tree. Provided, that maple syrup made by dissolving pure maple sugar in pure water shall for the purposes of this chapter be deemed pure.

If designed or offered for sale or use as either maple sugar or maple syrup, or as a substitute for either, or in imitation of either, any substance or preparation which is not pure, within the meaning of the above definition, shall for the purpose of this chapter be deemed and known as "maple sugar substitute" or "maple syrup substitute," as the case may be.

The manufacture or sale of any maple sugar substitute or any maple syrup substitute which contains any ingredient injurious to health is prohibited.

No person shall sell any such substitute, unless each receptacle or package in which the same is kept for sale or sold, shall have securely affixed in a conspicuous place upon the side thereof, and plainly separated from other reading matter, a separate and distinct white or light colored label upon the outside face of which label shall be printed in the English language, with black ink, in type not smaller than 12 point, bold-face Gothic capitals, the words "This maple sugar substitute (or maple syrup substitute, as the case may be) is composed of;" and immediately following upon the same label, in color, style and manner aforesaid, there shall appear the name of each ingredient contained in such substitute, using the name by which each ingredient is commonly known; and there shall also appear upon such label the name and address of the manufacturer of such substitute.—R. L. 1905, § 1764.

§ 610. **Sorghum syrup.**—Sorghum syrup, to be deemed pure, must consist wholly of the product obtained by the evaporation of the natural juice of the sorghum plant.

If designed or offered for sale or use as sorghum syrup, or as a substitute therefor, or in imitation thereof, any substance or preparation which is not pure sorghum syrup within the meaning of the above definition, shall for the purpose of this chapter be deemed and known as "sorghum syrup substitute."

The manufacture or sale of any sorghum syrup substitute which contains any ingredient injurious to health is prohibited.

No person shall sell any sorghum syrup substitute, unless each receptacle in which the same is kept for sale or sold, shall have securely affixed upon the side thereof a separate and distinct white label, upon the outside face of which label shall be printed in the English language, with black ink, in type not smaller than 36 point, bold-face Gothic capitals, the words "This preparation is sorghum syrup substitute composed of;" and immediately following upon the same label in color, style and manner aforesaid, there shall appear the name and proportionate amount by weight, of each ingredient contained in such substitute, using the name by which each ingredient is commonly known; and there shall also appear upon such label the name and

address of the manufacturer of such substitute.—R. L. 1905, § 1765.

§ 611. **Honey.**—Pure honey is wholly the natural product of honey bees, collected and made by them from the nectars of flowers and saccharine exudations of plants.

If made by bees in whole or in part from glucose, sugar, syrup or other material fed to them for the purpose, such product is “fed honey” and shall, for the designs of this chapter, be deemed and known as “honey substitute.”

If designed or offered for sale or use as honey or as a substitute therefor, or in imitation thereof, any substance or preparation which is not pure honey, within the meaning of the above definition, shall, for the purposes of this chapter, be deemed and known as “honey substitute.”

The foregoing definitions and terms shall be deemed to apply both to comb honey and to the extracted or strained products of comb honey.

The manufacture or sale of any honey substitute which contains any ingredients injurious to health is prohibited.

No person shall sell any honey substitute, unless each receptacle, package or frame in which it is kept for sale or sold, shall have securely affixed in a conspicuous place upon the side thereof, and plainly separated from other reading matter, a separate and distinct white label, upon the outside face of which label shall be printed in the English language, with black ink, in type not smaller than 10 point, bold-face Gothic capitals, the words “This preparation is honey substitute, composed of;” and immediately following upon the same label, in color, style and manner aforesaid, there shall appear the name and proportionate amount by weight, of each ingredient contained in such substitute, using the name by which each ingredient is commonly known; and there shall also appear upon such label the name and address of the manufacturer of such substitute, and if such substitute consists in whole or in part of fed honey, then there shall also appear upon such label the name of each substance fed to the bees producing such fed honey together with the name and location of the apiary from which such fed honey came.—R. L. 1905, § 1766.

§ 612. **Confectionery.**—No person shall manufacture or sell adulterated confectionery; and confectionery shall be deemed adulterated if it contains terra alba, barytes, tale, coal-tar, dye, or any other poisonous or injurious coloring matter, or any poisonous or injurious flavoring matter, or any substance injurious to health.—R. L. 1905, § 1767.

§ 613. **Lard.**—Lard, to be deemed pure, must be composed wholly of rendered hog fat and must contain intact every constituent normal to rendered hog fat.

If designed or offered for sale or use as lard, or as a substitute therefor, or in imitation thereof, any substance or preparation which is not pure lard, within the meaning of the above defini-

tion, shall for the purpose of this chapter be deemed and known as "lard substitute."

The manufacture or sale of any lard substitute which contains any ingredient injurious to health is prohibited.

No person shall sell any lard substitute, unless each receptacle in which the same is kept for sale or sold, shall have securely affixed in a conspicuous place upon the side thereof, a stencil, brand or light colored label, upon the outside face of which shall appear in the English language, in letters not smaller than 36 point bold-face Gothic capitals, the words "Lard substitute," and immediately following in color, style and manner aforesaid, there shall appear the name and proportionate amount by weight, of each ingredient contained in such substitute, using the name by which each ingredient is commonly known; and there shall also appear upon such label the name and address of the manufacturer or packer of such substitute; and in addition to the proper labeling of such receptacle, as hereinbefore required, the seller shall furnish to the purchaser, at the time of sale, a card upon which is distinctly and legibly printed in English all data and information required to be printed upon the label aforesaid.—R. L. 1905, § 1768.

§ 614. **Same—Use in food.**—No person shall sell in any bakery or other place where prepared foods are kept for sale or sold, and no person shall serve to guests, boarders or patients for pay, any food prepared wholly or in part from, with, or by use of lard substitute, unless at the time of such sale or service there be furnished to the purchaser a card or printed notice upon which is distinctly and legibly printed in English the words "This food is prepared with lard substitute;" and such person shall also keep constantly posted upon the walls of the room where sale or service is made, in conspicuous positions, a notice, upon which shall be distinctly and legibly printed in English, and in letters of sufficient size to be visible from all parts of the room, the words "Lard Substitute is used in the preparation of food sold (or served) here."—R. L. 1905, § 1769.

§ 615. **Other articles of food.**—Any article, designed or offered for sale or use as food, which is not expressly included within the terms of any other section of this chapter, shall for the purposes herein be subjected to the tests for adulteration prescribed for spices and condiments in § 1762 (§ 607); and if such article or preparation be adulterated as therein defined, it shall be unlawful to sell the same.—R. L. 1905, § 1770.

§ 616. **Applicable to all foods.**—The manufacture or sale of any article, designed or offered for sale or use as food, is prohibited, if it contain or is mixed with, or by use of any substance or preparation the manufacture or sale of which is specifically prohibited by any section of this chapter; or if it be in itself injurious, or if it contain any ingredient injurious to health; or if it contain coal-tar dye or saccharin; or if it consist in whole or

in part of a filthy or decomposed substance, or of any portion of any animal unfit for food, or of the product of a diseased animal, or one that has died otherwise than by slaughter. And it shall be unlawful to add or apply to any article designed for sale or use as food, any preservative which conceals or tends to conceal the taste, odor, or other evidence of putrefaction, taint or filth existing in such article, or which conceals or tends to conceal inferiority in any form.—R. L. 1905, § 1771, as amended G. L. 1907, Chap. 258.

TITLE XIV.—MISCELLANEOUS PROVISIONS.

§ 617. **Linseed oil.**—Pure linseed oil shall be defined as the oil obtained wholly from the seeds of the flax plant and containing no added ingredient. Pure “Boiled” linseed oil is composed wholly of pure linseed oil with so-called dryers added thereto, to an amount not exceeding 3 per cent of the total product.

Pure linseed oil as distinguished from pure “boiled” linseed oil shall be known as “raw” linseed oil.

If designed or offered for sale or use as either raw or boiled linseed oil, or as a substitute for either, or in imitation of either, any substance or preparation which is not pure, within the meaning of either of the above definitions, shall be deemed adulterated and the manufacture or sale thereof is prohibited.

No person shall sell either pure raw linseed oil or pure boiled linseed oil, unless each receptacle in which the same is kept for sale or sold shall have distinctly, legibly and durably painted, stamped, stenciled or labeled thereon the true name of such oil, setting forth in bold-face capital letters not smaller than one inch in length, whether it be “pure raw linseed oil” or “pure boiled linseed oil;” and there shall also appear upon such receptacle the name and address of the manufacturer of such oil.—R. L. 1905, § 1772.

§ 618. **Sale of paris green inaccurately labeled made a misdemeanor.**—Whoever shall expose for sale or sell within this state any “paris green” or other insecticide which does not conform to all the requirements of this act, or which is labeled or marked in any manner so as to tend to deceive the purchaser as to its nature or composition, or which is not accurately labeled as hereinafter required shall be guilty of a misdemeanor and for each offense shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars, and not more than one hundred dollars, or by imprisonment in the county jail not exceeding sixty days.—G. L. 1909, Chap. 62, § 1.

§ 619. **Term defined.**—The term insecticide as used in this act shall include “paris green” and any other substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any and all insects which may infest vegetation.—G. L. 1909, Chap. 62, § 2.

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§ 620. **Formula prescribed.**—Any insecticide labeled, marked or called “paris green” shall contain at least fifty per cent of arsenious oxide in combination with copper, not more of water-soluble arsenic than the equivalent of three and one-half per cent arsenious oxide, and no substance that would injuriously affect its strength or quality. And any insecticide labeled and called lead arsenic or arsenic of lead must contain at least fifty per cent of actual lead arsenic, at least twelve and one-half per cent of arsenious oxide, no more water-soluble arsenic than the equivalent of one per cent of arsenic oxide and no added substances that would injuriously affect the quality or strength.—G. L. 1909, Chap. 62, § 3.

§ 621. **Statement on label.**—The label required by this act shall clearly and distinctly state the name and residence of the manufacturer of the “paris green” or other insecticide, or the distributor thereof, or of the party for whom the same is manufactured and show the name, and with substantial accuracy, the percentage of each ingredient, both solid and liquid, contained therein; said label shall be printed in the English language in plain, legible type.—G. L. 1909, Chap. 62, § 4.

§ 622. **Possession prima facie evidence.**—The having in possession by any person, firm or corporation dealing in said articles, any article or substance hereinbefore described and not properly labeled, as provided in this act, shall be considered prima facie evidence that the same is kept by such person, or firm, in violation of the provisions of this act, and punishable under it.—G. L. 1909, Chap. 62, § 5.

§ 623. **Officer to enforce act.**—The dairy and food commissioner of the state is charged with the proper enforcement of all the provisions of this act.—G. L. 1909, Chap. 62, § 6.

§ 624. **Authority and duty of food commissioner and deputies.**—The said commissioner and the assistants, experts, chemists and agents shall be duly authorized for the purpose and shall have access and ingress to all the places of business, factories, stores and buildings used for the manufacture or sale of such “paris green” or other insecticide. They shall also have power and authority to open any package, can or other receptacle containing such “paris green” or other insecticide, that may be sold, manufactured or exposed for sale in violation of the provisions of this act.

§ 625. This act shall take effect and be in force from and after August 1st, 1909.—G. L. 1909, Chap. 62, § 7.

§ 626. **Paints.**—No person shall sell as pure white lead paint any compound containing ingredients other than carbonate of lead and pure linseed oil; or as pure mixed paint any compound containing ingredients other than pure linseed oil, pure carbonate of lead, oxide of zinc, turpentine, japan dryer, and pure colors. Every person who shall mark or otherwise represent as pure any paint not conforming to the requirements aforesaid, or

who shall otherwise violate any provision of this section or § 1772 (§ 617) shall be deemed guilty of a misdemeanor.—R. L. 1905, § 1773.

§ 627. **Prevent deception in the sale of paints—Penalties.**—Whoever shall expose for sale or sell within this state, any paint which is labeled or marked in any manner so as to tend to deceive the purchaser as to its nature or composition, or which is not accurately labeled as hereinafter required, shall be guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars, and not more than one hundred dollars, or by imprisonment in the county jail not exceeding sixty days.—G. L. 1907, Chap. 421, § 1.

§ 628. **Terms defined.**—The term “paint” as used in this act shall include white lead in any kind of oil, or any compound intended for the same use, paste or semi-paste, and liquid or mixed paint ready for use.—G. L. 1907, Chap. 421, § 2.

§ 629. **Label.**—The label required by this act shall clearly and distinctly state the name and residence of the manufacturer of the paint, or the distributor thereof, or of the party for whom the same is manufactured and show the name, and with substantial accuracy, the percentage of each ingredient, both solid and liquid, contained therein; provided, however, that in case of paint other than white paint, the ingredients other than the coloring material may be treated as 100 per cent. In which case, it shall be necessary to state not only the name and percentage of each ingredient other than the coloring matter, but also the description or trade name of such coloring material, and state with substantial accuracy, its chemical analysis, said label shall be printed in the English language in plain, legible type.—G. L. 1907, Chap. 421, § 3.

§ 630. **Evidence.**—The having in possession by any person, firm or corporation dealing in said articles, any article or substances hereinbefore described and not properly labeled, as provided in this act, shall be considered prima facie evidence that the same is kept by such person, or firm, in violation of the provisions of this act and punishable under it.—G. L. 1907, Chap. 421, § 4.

§ 631. **Enforcement.**—The dairy and food commissioner of the state is charged with the proper enforcement of all the provisions of this act.—G. L. 1907, Chap. 421, § 5.

§ 632. **Commissioner and assistants.**—The said commissioner and the assistants, experts, chemists and agents, shall be duly authorized for the purpose and shall have access and ingress to all the places of business, factories, stores and buildings used for the manufacture or sale of paints. They shall also have power and authority to open any package, can, tub, or other receptacle containing paints that may be sold, manufactured or exposed for sale in violation of the provisions of this act.—G. L. 1907, Chap. 421, § 6.

§ 633. **Misbranding.**—Any person who either fails to affix or display any brand, marking, label, card or placard in the manner and form required by any section of this chapter, or who fails to fully or truthfully state thereon all things as in such section required, or who places thereon anything other than the specific data or information therein called for; any person who shall remove, erase, efface, obscure or obliterate any such mark, brand, label, card or placard so required by law, and any person who shall place upon any article designed or offered for sale, or use as food, or any article mentioned in this chapter, or upon any receptacle or package containing the same, anything which might deceive or tend to deceive the purchaser as to the substance from which such article is made or which it contains, or in respect to its quality, strength or quantity, or in respect to the source of its manufacture or production, or which conflicts with, confuses or conceals any data or information required by this chapter to be set forth by the aforesaid mark, brand, label, card or placard, shall be deemed guilty of a misdemeanor, which shall be known as misbranding; and the article concerning, or upon which such misbranding is done, shall be deemed a misbranded article.—R. L. 1905, § 1774.

§ 634. **To prevent fraud and deception in the manufacture and sale of food—Label.**—That for the purpose of securing uniformity, as far as practicable, between the laws of this state and those of the federal government, enacted to prevent fraud and deception in the manufacture and sale of articles of food, and to preserve the public health, the dairy and food commissioner of this state shall have authority by ruling or rulings to require, whenever in his discretion he deems it advisable that any article of food or the package, receptacle or container thereof, before it be sold or offered or exposed for sale or had in possession with intent to sell in this state, shall be labeled, stamped, stenciled, marked or branded in such manner as to plainly exhibit to the purchaser any or all of the following data or information, to-wit: The true composition of such food article, its quality, strength, quantity, source of its manufacture or production, and the person by or for whom the same is manufactured, produced, packed or shipped; and the said commissioner shall also have authority to prescribe by such ruling or rulings the date at which the same shall take effect and be in force, and also the form, size, style and wording of and the place, time, method, means and manner of use of all such labels, stamps, stencils, brands and markings. Provided, that each of such rulings shall be in writing signed by the said commissioner, and shall be kept on file in his office and be open to inspection on request; and before any such ruling shall take effect it shall be published twice in a newspaper of general circulation published in this state, and when so made and published shall, from and after the tenth day

succeeding the date of the last such publication, have the force and effect of law, and an affidavit of such publication, setting forth the said ruling in full and the dates of such publication thereof, shall be made by the publisher of such newspaper, or by the agent of such publisher, and shall be kept on file by the said commissioner in his office with the original of such ruling or rulings; and such affidavit of publication shall be *prima facie* evidence of the facts therein contained and of the said ruling and rulings therein set forth; and whenever in his discretion such action is advisable, the said commissioner shall have authority to modify, change or abrogate any and all such rulings, and to issue new rulings, but always in the manner hereinabove prescribed.

When so made and promulgated such ruling or rulings shall have the force and effect of law and to any and all such rulings sections 1774 and 1775, Revised Laws, 1905 (§ 633 and § 636) shall be adapted and applied, and any person who shall fail to comply with such ruling or rulings of said commissioner, the test for such compliance being the provisions of section 1774, Revised Laws, 1905 (§ 633), adapted and applied as aforesaid, shall be deemed guilty of a misdemeanor; and the having in possession of any article which is misbranded with reference to any such ruling or rulings and within the meaning of section 1774, Revised Laws, 1905 (§ 633), as applied and adapted to such rulings, shall be deemed *prima facie* evidence that the same is kept in violation of the law; and any violation of the provisions of this act shall be deemed a misdemeanor, the punishment whereof shall be a fine of not less than fifteen dollars or imprisonment for not less than twenty days.

Provided, however, that if a person shall fully comply with the provisions of chapter 21, Revised Laws, 1905, with reference to the labeling, marking, stenciling, stamping and branding of an article of food, but shall fail to comply with the said ruling or rulings of the commissioner which may be made with respect to such article, such person shall be exempt from prosecution hereunder.—G. L. 1907, Chap. 424, § 1.

§ 635. Provisions applicable.—The dairy and food commissioner and his several employees shall enforce the provisions of this act, and to this act shall be adapted and applied the provisions of sections 1736, 1738, 1776, 1777, 1778 and 1779, Revised Laws, 1905 (§§ 565, 567, 637, 638, 639, 640), as the said sections and each of them now exist and as they may be hereafter amended; nor shall this act be construed as repealing any section or provision of chapter 21, Revised Laws, 1905. Provided, always, that any and all rulings by the said commissioner shall be subjected to the test of its reasonableness and utility in accomplishing the purposes of this act.—G. L. 1907, Chap. 424, § 2.

§ 636. All violations, misdemeanors—Evidence.—The having in possession of any article which is misbranded, within the mean-

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ing of § 1774 (§ 633) shall be deemed prima facie evidence that the same is kept in violation of the law. Every violation of any provision of this chapter shall be deemed a misdemeanor and wherever the minimum punishment is not hereinbefore expressly prescribed, such minimum shall be a fine of not less than \$15, or not less than 20 days' imprisonment. In all criminal prosecutions under this chapter the doing of any act prohibited thereby or the failure to do any act commanded, shall be prima facie evidence of an intent to violate the law; and in any such prosecution the certificate of the commissioner's chemist making the analysis, when sworn to by him, shall be prima facie evidence of the facts therein stated; and wherever in this chapter the manufacture or sale of any article or preparation is forbidden by the use of the word "prohibited," compliance with any labeling, marking or placarding requirement hereof, shall not be construed as making such manufacture or sale lawful.—R. L. 1905, § 1775.

§ 637. **Seizure—Search warrants.**—The commissioner shall seize all goods, the sale of which is prohibited by this chapter, or which are kept or offered for sale in violation of any provision hereof, and for this purpose he and his several employees shall have the powers of a constable. Such seizure may be made without a warrant, but in such case, as soon as practicable, he shall cause the person suspected of such violation of law to be arrested and prosecuted therefor. When necessary, a search warrant may be issued, as in the case of stolen property: the form of the complaint and of the warrant being adapted to the purpose of this chapter.—R. L. 1905, § 1776.

§ 638. **Execution of warrant—Disposal of goods seized.**—The search warrant shall be directed to the sheriff or any constable of the county, and may be executed by the commissioner or any of his employees. No security for costs shall be required thereon, nor upon any prosecution under this chapter. All goods seized, whether with or without warrant, shall be safely kept by the officer so long as they may be needed as evidence; and, if found, upon the trial, to have been kept, offered or sold in violation of law, such goods shall be forfeited to the state, and shall be disposed of as directed by the court.—R. L. 1905, § 1777.

§ 639. **Price not collectible.**—No action shall be maintained for the purchase price or value of any goods the sale of which is prohibited by this chapter, or which are sold or intended to be sold in a manner forbidden hereby. Nor shall any person be liable for the price or value of food or board furnished in violation of any provision hereof.—R. L. 1905, § 1778.

§ 640. **Costs—Fines—Receipts.**—In all prosecutions under this chapter, and in all prosecutions under other laws which the dairy and food commissioner is authorized to enforce, the costs thereof shall be paid and collected as in other criminal cases; but all fines collected shall be paid into the state treasury, and be added, together with all fees and other receipts of the commissioner,

to the appropriation made for the support of his office for the current year.—R. L. 1905, § 1779, as amended G. L. 1907, Chap. 426.

§ 641. **Appropriations.**—The sum of \$15,000, or so much thereof as may be necessary, is hereby appropriated annually for the carrying out of the purposes of this chapter and for the salaries and expenses of the state dairy and food commissioner, his assistant and employees.—R. L. 1905, § 1780.

§ 642. **To prevent fraud and deception in the manufacture and sale of concentrated commercial feeding stuffs—Terms defined.**—The term “concentrated commercial feeding stuffs,” as used in this act, shall include linseed meals, cottonseed meals, pea-meals, cocoanut meals, gluten meal, oil meals of all kinds, gluten feeds, maize feeds, starch feeds, sugar feeds, sucrose, hominy feeds, cerealine corn and oat feeds, ground beef or fish scraps, mixed feeds of all kinds, also all condimental stock foods, patented and proprietary stock foods claimed to possess nutritive as well as medicinal properties, and all other materials intended for feeding to domestic animals; but shall not include hays and straws, the whole seeds nor the unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat, dried brewers’ grains, wet brewers’ grains, malt sprouts, sorghum and broom corn. Neither shall it include wheat, rye and buckwheat brans or middlings not mixed with other substances, but sold separately, as distinct articles of commerce, nor pure grains ground together.—G. L. 1907, Chap. 383, § 1.

§ 643. **Label.**—Every manufacturer, individual, association, co-partnership, corporation agent or employee (all hereinafter included in the term “person”), who shall sell, offer or expose for sale or distribution in this state any concentrated commercial feeding stuff, used for feeding live stock, shall furnish with each car or other amount shipped in bulk, and shall affix to every package or receptacle containing such feeding stuff, in a conspicuous place on the outside thereof, a distinct and plainly printed label clearly and truly certifying the net weight in pounds of feeding stuff in such car or receptacle, the name or trademark under which the article is sold, the name of the manufacturer, jobber or shipper, the place of manufacture or address of jobber or shipper, and also the percentage it contains of crude fat and crude protein, allowing one per centum of nitrogen to equal six and one-fourth per centum of protein, both constituents to be determined by the methods prescribed by the association of official agricultural chemists of the United States; and whenever any feeding stuff is sold at retail in bulk or in packages belonging to the purchaser, the agent or dealer, upon request of the purchaser, shall furnish to the purchaser a certified copy of the statement contained upon the label aforesaid.—G. L. 1907, Chap. 383, § 2.

§ 644. **Penalty.**—Any person who shall sell, offer or expose for sale or distribution in this state any concentrated feeding

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stuffs without complying with the requirements of this act, or any feeding stuffs which contains substantially a small percentage of constituents than are certified to be contained in such feeding stuffs shall be guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than ten dollars nor more than one hundred dollars, or imprisonment not less than ten days nor more than ninety days.—G. L. 1907, Chap. 383, § 3.

§ 645. **Inspection.**—The state dairy and food commissioner shall enforce the provisions of this act, and for the purpose of obtaining information regarding suspected violations of this act they shall have access to all cars and other carriages used for the transportation of any commercial concentrated feeding stuffs, the manufacture and sale of which is restricted, regulated and prohibited hereby, and to all places where any of such commodities is or may be manufactured, prepared, stored, kept for sale or sold; and may inspect any package or receptacle which they may have good reason to believe contain any such commodity and may take samples therefrom for analysis, and any person wilfully obstructing or hindering such entry or inspection or failing, upon request, to assist therein, where such assistance is actually needed, shall be guilty of a misdemeanor.—G. L. 1907, Chap. 383, § 4.

§ 646. **Misbranding.**—Any concentrated commercial feeding stuffs within the meaning of this act which is not labeled as hereinbefore required shall be deemed a misbranded article and the having in possession in any store, warehouse or factory ready for market, such misbranded articles shall be deemed prima facie evidence that the same is intended for sale or distribution, and in violation of this act, and in any prosecution under this act, a certificate of the official chemist of the dairy and food department of the State of Minnesota having made the analysis, when sworn to by such chemist, shall be prima facie evidence of the facts therein stated.—G. L. 1907, Chap. 383, § 6.

§ 647. **Fines.**—In all prosecutions under this act the fines and costs collected thereunder shall be paid into the state treasury, but shall be credited to the fund set apart for the use and support of the department of the dairy and food commissioner of this state.—G. L. 1907, Chap. 383, § 7.

CHAPTER XVII.—OFFICAL AND OTHER BONDS, FINES AND FORFEITURES.

§ 648. **Bonds, etc.—Sureties, qualifications.**—Save when otherwise specially provided by statute, every bond, recognizance, or undertaking required or permitted to be made, given, tendered, or filed for the security or protection of the state, or of any person, corporation, municipality, or department thereof, or any other organization whatever, and conditioned for the doing or not doing of anything in such instrument of security specified, shall be signed by two or more sureties, who shall be residents and freeholders of the state, and shall justify as provided in the following section. Every bond or recognizance shall also be signed by the principal, and every bond shall be acknowledged by the principal and sureties.—R. L. 1905, § 4523.

§ 649. **Modes of justification—Bonds to be double amount of penalty.**—The justification of sureties mentioned in section 4523 (§ 648) shall be by affidavit, annexed to the bond or other security, wherein each surety shall state under oath that he is worth a certain definite amount above his debts and liabilities and exclusive of his property exempt from execution, but the aggregate of the amount sworn to as aforesaid by all the sureties shall be not less than double the amount of the penalty of such bond or other security. Where in the cases provided by law exception is taken to sureties, they shall be examined by the judge or officer before whom they are required to attend for purposes of justification, in such manner as he shall deem proper. The examination shall be reduced to writing and filed in the cause, and, if the judge or officer deems the sureties sufficient, he shall endorse his approval upon the instrument, and return the same to the proper custodian thereof.—R. L. 1905, § 4524, as amended G. L. 1907, Chap. 311.

§ 650. **Surety companies.**—Whenever the bond or other instrument is required to be made with one surety, or with two or more sureties, it shall be sufficient if the same be executed, or the conditions thereof be guaranteed, solely by a corporation authorized by law so to do. But no such corporation shall be accepted or approved as a surety or guarantor unless it holds the certificate of the insurance commissioner, showing that it is authorized to contract as such.—R. L. 1905, § 4525.

§ 651. **Sureties for part of penalty.**—Sureties may be accepted, in the discretion of the approving officer or body, for a part only of the penalty, and may justify in separate and different sums; but the aggregate liability of the sureties shall in all cases be not less than that required by law, if each surety had justified in the full amount.—R. L. 1905, § 4526.

§ 652. **Undertaking in lieu of bond.**—In all cases of appeal from a county board to the district court upon the allowance or disallowance of claims, in all actions brought before justices of the peace, in all appeals from a justice or probate court to the district court, in all actions begun in the district court, in all cases of appeal or writ of error to remove a cause or proceeding therein to the Supreme Court, and in all cases of special or equitable proceeding, in the district or Supreme Court, the filing or service or both, as may be required of an undertaking, signed by a surety or sureties as the law may require, containing a condition substantially the same as required for bonds, with like sureties, qualifications and justifications, and without acknowledgment or signature of the principal, shall be deemed a sufficient compliance with the law to sustain any such action, appeal, or proceeding. Every such undertaking shall save and secure all rights and liabilities to the same extent as a bond, and the damages presumed to accrue to the party against whom such proceeding is taken, shall be deemed a sufficient consideration for such undertaking, though no consideration be mentioned therein; but no undertaking or bond need be given upon any appeal or other proceeding instituted in favor of the state, or any county, city, town, or school district therein, or of any executor or administrator as such.—R. L. 1905, § 4527.

§ 653. **Cost for surety bond.**—Any receiver, assignee, trustee, committee, guardian, executor, administrator, or other fiduciary, required by law to give bond as such, may include as a part of his lawful expenses, such reasonable sum paid for such suretyship, not exceeding \$10 per annum when the amount of the bond is not more than \$1,000, and not more than one-half of one per cent per annum on the excess when over \$1,000, as the head of the department, court, judge, or officer by whom, or the court or body by which he is appointed allows; and in all actions or proceedings the party entitled to recover costs may include therein the reasonable fees of such company for executing or guaranteeing any bond or undertaking therein. The several county and town boards, and the governing body of any city, village, or school district, may allow the treasurer of the municipality such reasonable sum, not exceeding the amount herein specified, as may have been paid by him for such suretyship, to be paid out of the general revenue fund of the municipality; provided, that the officers required by law to approve such bill may first designate the surety company to be employed, if its charges be as low as those offered by any other responsible company.—R. L. 1905, § 4528.

§ 654. **Bonds, by whom approved.**—Except as otherwise provided by law in particular cases, bonds shall be approved as follows:

1. The official bonds of all state officers, including those of the treasurers, superintendents, and other officials, and employees of the several public educational, charitable, penal and reforma-

tory institutions belonging to the state, shall be approved, as to form, by the Attorney General, and in all other respects by the Governor and the public examiner; or one of them;

2. The official bonds of county, town, city, village, and school district officers and employees by the governing body of the municipality, for whose security they are respectively given;

3. Those required or permitted by law to be given in any court, by the judge or justice of the court in which the proceeding is begun or pending.

No officer, official, or employee required to give bond shall enter upon his duties until his bond is duly approved and filed.—R. L. 1905, § 4529.

§ 655. **Place of filing bonds.**—Except when otherwise especially provided by law, the bonds of public officials shall be filed as follows:

1. Those of all state officers, including the officials and employees of the several departments and institutions thereof, with the Secretary of State, who shall record and retain the same;

2. Those of all county officers, and of all other officials or persons given to the county, with the register of deeds; and after the same have been recorded by the register, he shall file them with the Secretary of State for safe-keeping;

3. Those of all city, village, and borough officers, with the clerk of such municipality;

4. Those of school district officers, with the clerk of the district.—R. L. 1905, § 4530.

§ 656. **Same—In court proceedings.**—All bonds required or permitted by law to be given in actions or proceedings in any court shall be filed in said court, unless especially required by law to be filed, delivered, or deposited elsewhere, or unless the judge or justice of such court shall by written order direct some other disposition thereof.—R. L. 1905, § 4531.

§ 657. **Examination of accounts of public officers.**—In case of the filing of a new official bond or other security, the expiration of the term of office, or the death, resignation, or removal of the officer, the officer, board, committee or body required or permitted to accept or approve such bond or other security, having jurisdiction or being authorized or required to examine the accounts of such officer, shall make or cause to be made a thorough examination of his accounts, and if any shortage or irregularity is discovered, shall at once notify such officer and his sureties of the amount claimed to be due, or of the nature of the irregularity. Such statement shall be in writing, and be served upon such officer and his sureties, or their agents or attorneys, by mail, addressed to their residences, if known; but failure to make the examination or give such notice shall not discharge the sureties.—R. L. 1905, § 4532.

§ 658. **Official bonds, security to whom—Actions.**—The official bond or other security of a public officer, whether with or

without sureties, shall be security to all persons severally for the official delinquencies against which it is intended to provide, as well as to the obligee designated therein, and when no other provision is made by law, it shall run to the state. When a public officer, by official misconduct or neglect, forfeits his bond or renders his sureties liable thereon, any person injured thereby, or who is by law entitled to the benefit of the security, may bring an action thereon in his own name, against the officer and his sureties, to recover the amount to which he is entitled by reason of the delinquency; and a judgment in favor of a party for one delinquency does not preclude the same or another party from an action on the same security for another delinquency.—R. L. 1905, § 4533.

§ 659. Leave to bring action—Endorsement of execution.—Before an action shall be brought by a plaintiff other than the state or body politic named in the bond, leave shall be obtained of the district court of the county in which the action is triable, or a judge thereof, by the production of a copy of the bond and an affidavit showing the delinquency; and if the delinquency be such that, if established on the trial, it would entitle the applicant to recover, leave shall be granted. Upon the execution issued on a judgment recovered upon the official security of a public officer, against him and a surety, there shall be endorsed a direction to the officer to whom the same is delivered to collect the same out of the property of the principal, if sufficient can be found, and if not, out of the property of the surety.—R. L. 1905, § 4534.

§ 660. Bonds of public contractors—Penalty.—No contract with the state, or with any municipal corporation or other public board or body thereof, for the doing of any public work, shall be valid for any purpose, unless the contractor shall give bond to the state or other body contracted with, for the use of the obligee and of all persons doing work or furnishing skill, tools, machinery, or materials under, or for the purpose of, such contract, conditioned for the payment, as they become due, of all just claims for such work, tools, machinery, skill, and materials, for the completion of the contract in accordance with its terms, for saving the obligee harmless from all costs and charges that may accrue on account of the doing of the work specified and for compliance with the laws appertaining thereto. The penalty of such bond shall be not less than the contract price.—R. L. 1905, § 4535.

§ 661. Same—Approval and filing—Liability for failure—Charges.—Such bond shall be approved by, and filed with the treasurer of the obligee named therein unless the contract be for the erection, improvement, or repair of buildings for a state institution, in which case it shall be approved and filed with the board or officer having the financial management of such institution. If such bond be not taken, the corporation or body for which work is done under the contract shall be liable to all persons, furnishing labor, skill or material to the contractor there-

under for any loss resulting to them from such failure. No assignment, modification, or change of the contract, or change in the work covered thereby, nor any extension of time for completion of the contract shall release the sureties on said bond.—R. L. 1905, § 4536, as amended G. L. 1907, Chap. 379.

§ 662. **Same—Action on bond.**—Any person entitled to the protection of such bond may maintain an action thereon for the amount due him. He shall notify the obligee named in the bond of the beginning of such action, giving the names of the parties, describing the bond sued upon, and stating the amount and nature of his claim. No judgment shall be entered in such action within 30 days after the giving of such notice. The obligee or any other person having a cause of action on such bond may be admitted, on his motion, as a party to such action, and the court shall determine the rights of all parties thereto. If the amount realized on said bond be insufficient to discharge all such claims in full, such amount shall be distributed among the parties pro rata.—R. L. 1905, § 4537.

§ 663. **Insolvent or insufficient sureties.**—Whenever in its judgment any of the sureties on such bond have become insolvent, or for any cause are no longer proper or sufficient sureties, the obligee may require the contractor to furnish a new or additional bond within 10 days; and thereupon, if so ordered by such obligee, all work on such contract shall cease until such new or additional bond is furnished. If such bond be not furnished within such time, the obligee may at its option determine the contract, and complete the same as the agent and at the expense of such contractor and his sureties.—R. L. 1905, § 4538.

§ 664. **Limit of time to bring action.**—No action shall be maintained on any such bond unless within ninety days after the completion of the contract and acceptance of the building by the proper public authorities, the plaintiff shall serve upon the principal and his sureties a written notice specifying the nature and amount of his claim and the date of furnishing the last item thereof, nor unless the action is begun within one year after the service of such notice.—R. L. 1905, § 4539, as amended G. L. 1909, Chap. 413.

§ 665. **Actions for fines, forfeitures, and penalties—Collusion.**—Actions for fines and forfeitures may be prosecuted by the officers or persons to whom they are by law given, or who by special provisions of law are authorized to recover them; and, whether prosecuted by public officers or by private persons, shall be governed by the same rules as other civil actions, except as herein otherwise prescribed. When an action is brought for a penalty, the amount of which is limited by law, it may be brought for the amount so limited, and upon trial the amount recovered shall be in proportion to the offense. Recovery of a judgment for a penalty or forfeiture, by collusion between the parties and with intent to save the defendant from the consequences contemplated

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by law, where the same is given wholly or partly to the prosecutor, shall not prevent a recovery of the same by another person.—R. L. 1905, § 4540.

§ 666. **Fines, how disposed of—Action by state.**—Fines and forfeitures not specially granted or appropriated by law, shall be paid into the treasury of the county where the same are incurred.—R. L. 1905, § 4541.

§ 667. **Prosecution for fines, etc.—Court—Commitment.**—All fines and forfeitures imposed as a punishment for any offense or for the violation of any duty imposed by statute, may be prosecuted for and recovered by indictment in the district court, or, when the amount or value thereof does not exceed \$100, before a justice of the peace, who shall have jurisdiction therefor concurrently with the district court; and in all cases of the imposition of a fine pursuant to statute, as punishment for any offense the offender may be committed until the same is paid or he is otherwise discharged according to law.—R. L. 1905, § 4542.

CHAPTER XVIII.—GENERAL PROVISIONS AND MISCELLANEOUS LAWS.

TITLE I.—SUNDRY PROVISIONS.

§ 668. **Damages—Notice of claim—Limitation.**—Every person who claims damages from any city, village, or borough for loss or injury sustained by reason of any defect in a street, road, bridge, or other public place, or by reason of the negligence of its officers, agents, or servants, shall cause to be presented to its council or other governing body, within thirty days after the alleged loss or injury, a written notice stating the time, place, and circumstances thereof, and the amount of compensation or other relief demanded. No action therefor shall be maintained unless such notice has been given, or if commenced within ten days thereafter, or more than one year after the occurrence of the loss or injury.—R. L. 1905, § 768.

§ 669. **Judgment against municipality—Payment.**—No execution shall issue on a judgment for the recovery of money against a city, village, or borough, except as hereinafter provided. Upon delivery of a certified copy of the judgment, the treasurer of such municipality shall pay it out of any moneys in or coming into his hands not otherwise appropriated, unless collection thereof be stayed on appeal, always retaining a sufficient sum to pay necessary current expenses; and, if he fails so to do, he and his bondsmen shall be liable for the amount. In case there be no such treasurer, then, upon delivery of such certified copy and an affidavit of the judgment creditor, his agent or attorney, showing the amount due, and that the judgment has not been stayed on appeal, the county treasurer shall pay such judgment out of the funds of the municipality in or coming into his hands, taking receipt therefor.—R. L. 1905, § 769.

§ 670. **Tax levy—Execution.**—When a judgment against a city, village, or borough is unpaid at the time of the annual tax levy, unless the proper officers thereof have otherwise provided sufficient funds to pay the same before the time for collection of such tax levy, they shall levy a tax to pay such judgment, and certify the same, and the purpose thereof, to the county auditor. If the judgment be not paid within 20 days after the time fixed by law for the county treasurer to pay over to the treasurer of the municipality the moneys in his hands belonging to it on account of such annual tax levy, execution may issue on such judgment, but only the property of such municipality shall be liable thereon. If there be no officers of the municipality to levy such tax, the judgment creditor may apply to the county auditor, who, upon being satisfied that the judgment has not been paid or stayed, shall levy and extend the tax.—R. L. 1905, § 770.

§ 671. **Codification of charter, etc.—Evidence.**—Any city or village may cause its charter, and all general and special laws, ordinances, resolutions, rules, and by-laws in force therein, to be codified, printed, and published, and may declare, by ordinance, such codification to be prima facie evidence of the law of such municipality. It shall thereupon be received in evidence by the courts.—R. L. 1905, § 771.

§ 672. **Transient dealers.**—No person, without permission granted by vote of the council, shall engage temporarily in the business of selling goods in any city or village, unless such goods have been duly assessed for taxation within the state for the current year. No such permission shall be granted by the council until the applicant shall have paid to the treasurer such sum as it may require, not exceeding \$50 per week, for the period for which permission is sought, which sum shall be fixed upon consideration of the kind, amount, and value of the goods offered. A transient dealer violating any provision of this section shall be guilty of a misdemeanor, and the fact that such goods are not listed for taxation in the county shall be prima facie proof that they are not assessed for taxation in the state.—R. L. 1905, § 773.

TITLE II.—LAW OF THE ROAD.

§ 673. **Vehicles meeting—Turn to right.**—When persons meet on any road or bridge, traveling with vehicles, each shall seasonably drive to the right of the middle of the traveled part of such road or bridge, so that the vehicles may pass without interference.—R. L. 1905, § 1258.

§ 674. **Passing—Turn to left.**—The driver of any vehicle passing another vehicle traveling in the same direction shall drive to the left of the middle of the traveled part of the road, and, if such road be of sufficient width to permit such passing, the driver of the leading vehicle shall not obstruct the same.—R. L. 1905, § 1259.

§ 675. **Intemperate drivers.**—No person owning or having control of a coach or vehicle traveling upon any road for the convenience of passengers shall employ any person to drive the same who is addicted to the excessive use of intoxicating liquors.—R. L. 1905, § 1260.

§ 676. **Penalties.**—Every person who violates any provision of the last three sections shall forfeit for each offense such sum as the court shall fix, not exceeding \$50, and shall also be liable to any party injured for all damages sustained by reason of such offense; provided, that complaint for such violation shall be made within three months, and every action for damages shall begin within one year, thereafter.—R. L. 1905, § 1261.

§ 677. **Leaving horses unfastened.**—No driver of any vehicle used for the conveyance of passengers shall leave the horses attached thereto, while any passenger remains in or upon the same, without securely fastening such horses or leaving some suitable

person in charge thereof; and, if any driver shall violate the provisions of this section, he and his employees, on prosecution begun within three months thereafter, shall jointly and severally forfeit such sum as the court may fix, not exceeding \$50.—R. L. 1905, § 1262.

§ 678. **Owners jointly liable.**—The owners of every vehicle traveling upon any road for the conveyance of passengers for hire shall be jointly and severally liable to the party injured for all injuries caused by any person employed by them as a driver while driving such vehicle, whether the act causing such injury is wilful, negligent, or otherwise.—R. L. 1905, § 1263.

§ 679. **Railway cars obstructing roads and streets.**—No person shall obstruct any public road or street by leaving, placing, keeping, or causing to be left, placed or kept, any railroad car upon or across the same, or to stop or cause to be stopped any engine or train of cars across any public road or street except for a sufficient time, not exceeding ten minutes, to couple or separate the cars. Whoever violates any provision of this section shall be guilty of a misdemeanor and punished by a fine of not less than \$5 nor more than \$50 and costs of prosecution, or by imprisonment in the county jail for not more than 30 days.—R. L. 1905.

§ 680. **Running toll.**—Whenever any person is authorized by law to collect toll for the crossing of any bridge or ferry belonging to him, and every person who wilfully runs the toll gate or passes over such bridge or ferry with the intention of avoiding the payment of the prescribed toll, or who refuses to pay such toll when thereto lawfully requested, shall be guilty of a misdemeanor, and punished by a fine of \$5. All fines received under the provisions of this and the two preceding sections shall be paid into the treasury of the town where the offense was committed, to be used in repairing the public roads of such town.—R. L. 1905.

§ 681. **Fast driving on bridge—How punished.**—Whoever rides or drives faster than a walk, upon any bridge, at each end of which a conspicuous sign board is placed, upon which is printed the following words and figures: “\$10 fine for riding or driving on this bridge faster than a walk,” shall be guilty of a misdemeanor, and punished by a fine of \$10, or imprisonment in the county jail for ten days, for each offense.—R. L. 1905.

§ 682. **Traction engine—Bridges.**—Every owner, engineer, or other person in charge of a traction engine, before taking such engine across a culvert or bridge, shall place extra planking thereon for the protection of the same, and neglect to do so shall render him liable for one-half the expense of repairing the same; provided, the amount so paid by him shall not exceed \$50. Such sum may be recovered in a civil action against the owner.—R. L. 1905, § 1264.

§ 683. **Traction engine—Whistle, etc.**—Every engineer, owner, or other person in charge of a traction engine propelled along

a road, who shall blow or permit the whistle of such engine to be blown within 500 feet of a team passing on such highway, if the team can be seen from the position of such engine, or who shall not stop the same at least 100 feet before meeting a horse or team traveling on such road, unless on a side hill where such stoppage might expose the flues of the engine and cause an explosion, and not start the same until such horse or team shall have passed the engine, shall be guilty of a misdemeanor.—R. L. 1905, § 1265

§ 684. **Reckless riding a misdemeanor.**—Every person who shall ride a bicycle on any side path in a dangerous or reckless manner, or in violation of any provision of law, shall be guilty of a misdemeanor.—R. L. 1905, § 1272.

TITLE III.—INJURING HIGHWAYS—OBSTRUCTING HIGHWAYS.

§ 685. **Injuring highways, etc.**—Every person who shall wilfully or maliciously displace, remove, injure, or destroy—

1. A highway, or a private way laid out by authority of law, or a bridge upon such public or private way;

2. A pile or other material fixed in the ground, and used for securing any bank or dam of any river or other water, or any dock, quay, jetty, or lock;

3. A buoy or beacon lawfully placed in any waters within the state;

4. A tree, rock, post, or other monument, which has been erected or marked for the purpose of designating a point in the boundary of the state, of a county, city, village, town, or of a farm tract, or lot of land, or any mark or inscription thereon;

5. A mileboard, milestone, or guidepost erected upon a highway, or any inscription thereon;

6. A line of telegraph or telephone, or any part thereof, or any appurtenance or apparatus connected with the working of any magnetic or electric telegraph or telephone, or the sending or conveyance of messages thereby;

7. A pipe or main for conducting gas or water, or any works erected for supplying buildings with gas or water, or any appurtenance or appendage connected therewith;

8. A sewer or drain, or a pipe or main connected therewith or forming part thereof; or

9. Who shall destroy or damage with intent to destroy or render useless, any engine, machine, tool, or implement intended for use in trade or husbandry—

Shall be guilty of a misdemeanor.—R. L. 1905.

§ 686. **Obstruction to highways and penalty.**—Whoever at any time obstructs any of the public highways in this state, in any manner, with intent to prevent the free use thereof by the public, or who shall dig any holes or remove any dirt, sand or clay from any such highway or any part thereof, and thereby damage the same, shall be subject to a fine of not less than five

nor more than twenty-five dollars, together with the costs attending such conviction, and, on failure to pay such fine and cost, may be committed to the county jail, there to remain until such fine and cost are paid, or until discharged, according to law; and it is hereby made the duty of the board of supervisors of the several towns of this state to make complaint and prosecute, in their official capacity, all violations of the provisions of this section.—G. L. 1905, Chap. 215.

TITLE IV.—RAILROAD AND COMMON CARRIERS.

§ 687. **Signs at crossings—Penalty.**—Every such company shall maintain, wherever any of its lines crosses a public road, a proper and conspicuous sign indicating such crossing. Any such company failing to comply with any requirement of this section shall forfeit to the town or municipality having charge of such road \$10 for each day that such failure continues.—R. L. 1905, § 1994.

§ 688. **Road crossings.**—Every such company shall construct and maintain in good repair and free from snow or other obstruction, wherever any of its lines shall cross a public road, sufficient crossings, consisting of:

1. Sufficient grades, sixteen feet in width on each side of the center of such road, and of such slope as may be deemed necessary by the officers having charge of the public road;

2. A plank covering of the same width, securely spiked, extending the full length of the ties, the planks not more than one inch apart, the planking not more than two and one-half inches from the rails, and the surface thereof on a level with the top of the rails.

In municipalities such grades and planking shall extend the full width of the street, or of that part thereof graded or used for travel, and like planking shall be placed between all tracks which are not more than fifteen feet apart. In case of roads newly established, such crossing shall be constructed within thirty days after the service on the nearest station agent or section foreman of such company of a notice, signed by the proper officer or officers having charge of such road, that such crossing is required.—R. L. 1905, § 1995.

§ 689. **Farm crossings.**—Any such company constructing a railroad so as to leave parts of any farm on different sides of such road shall construct a proper farm crossing at some place convenient for such farm.—R. L. 1905, § 1996.

§ 690. **Fences and cattle guards.**—Every such company shall build and maintain, on each side of all lines of road owned and operated by it, good and substantial fences, except at stations and depot grounds and other places which the necessary business of the road or public convenience requires to be open, and except in the platted part of any municipality. Whenever the land of any person lying along the right-of-way of any railroad is en-

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closed on three sides by a woven wire fence, such railroad company shall erect and maintain a woven wire fence of like character and quality along the said right-of-way enclosing the remaining side of said land. It shall also build and maintain such fences in such parts of any municipality as may be directed by the governing body thereof upon notice as in case of road crossings. It shall also build and maintain good and sufficient cattle guards at all road crossings and other openings.—R. L. 1905, § 1997, as amended G. L. 1907, Chap. 333.

§ 691. **Liability for failure to fence, etc.**—Any such company failing to comply with the requirements of the preceding section shall be liable for all damages resulting therefrom, and for all domestic animals killed or injured by its negligence; and, if it shall fail to pay the actual damages occasioned by such killing or injury within thirty days after such damage occurs, then, in case of recovery therefor by action brought after such thirty days, if in district court the plaintiff shall recover double costs, and if in justice court \$10 costs. Such company, before the commencement of action, may make tender for such injury, and if the amount recovered, exclusive of interest, shall not exceed the tender, the plaintiff shall recover no costs nor disbursements.—R. L. 1905, § 1998.

§ 692. **Fences—Crossings—Cattle Guards.**—Any such company operating a line of railroad in this state, which has failed or neglected to fence said road and to erect crossings and cattle guards, shall be liable for all damages sustained by any person in consequence of such failure or neglect; provided, that the measure of damages for failure to construct or maintain such fence shall be as follows: The owner of any land abutting on the line of railway of such company may serve notice on any of its station agents between the 1st day of April and the 1st day of October of any year, requiring the construction of a fence on the line between his land and its right of way. If such company shall not construct the same within forty days after service of such notice, the landowner may recover of the company an amount not exceeding twice the cost of such construction, with costs, and reasonable attorney's fee, to be allowed by the court, or he may construct such fence after the expiration of such time, and receive from the company double the cost of construction, with like costs and attorney's fees. Such fence shall be kept in repair by such company in like manner and under like penalties as if built by such company. But failure to serve such notice shall not relieve such company from liability for damages for injuries to persons or domestic animals or other property resulting from failure to fence its road.—R. L. 1905, § 1999.

§ 693. **Fences between railroad and public road.**—If any such company shall fail to fence its line where the same adjoins a public road or street, or lies so near thereto as to render travel thereon dangerous, the governing body of the town or municipality hav-

ing charge of such road or street, by notice as in case of abutting land-owner, may require such fence to be built; and, in case of failure to build such fence for the time provided in the preceding section, such town or municipality shall have the rights and remedies given by said section to such abutting owner.—R. L. 1905, § 2000.

§ 694. **Farm crossings and drains.**—Persons owning lands abutting upon a railroad may construct, at their own expense, crossings under, over, or across such railroad, and drains under and across the same, at such places and in such manner as not to obstruct or impair the use of such railroad, which crossings and drains shall be maintained and kept in repair by the company. Before constructing the same, the owner of the land shall serve on the nearest station agent of the company a notice, stating in detail the work which he desires to perform, and the company may construct such work; but the same shall not be opened for the use of the landowner, until he pays the reasonable cost of construction.—R. L. 1905, § 2001.

§ 695. **Gates at farm crossings.**—Any such company which shall erect at a farm crossing a gate for the exclusive use of the owner and occupants of such farm, provide a lock for the same, and deliver the key thereof to such owner or occupant shall not be liable to such owner or occupant for any animal killed or injured by reason of such gate being left open without fault of such company, unless such killing or injury results from the wanton or malicious act of such company or its employees.—R. L. 1905, § 2002.

TITLE V.—CONVEYANCERS OF REAL ESTATE.

§ 696. **Conveyances, how executed.**—All conveyances made within the state of any interest in lands therein shall be executed in the presence of two witnesses, who shall subscribe their names thereto as such. Such conveyances, made out of the state, may be executed as above provided, or according to the laws of the place of execution.—R. L. 1905, § 3346.

§ 697. **Conveyances not acknowledged—Death or removal of grantor.**—When any grantor dies, or departs from or resides out of the state, not having acknowledged his conveyance, the execution thereof may be proved by any competent subscribing witness thereto before any court of record; if all the subscribing witnesses are dead or out of the state, the execution may be proved before any such court by proving the handwriting of the grantor and of any subscribing witness.—R. L. 1905, § 3347.

§ 698. **Requisites to entitle to record.**—To entitle any conveyance, power of attorney, or other instrument affecting real estate to record, it shall be executed, acknowledged by the parties executing the same, and the acknowledgment certified, as required by law. All such instruments may be recorded in every county where any of the lands lie.—R. L. 1905, § 3348.

§ 699. Copy of record.—A copy of the record of any conveyance or other instrument authorized by law to be recorded in the office of the register of deeds in any county, or actually recorded therein in any county other than that in which the land described in or affected by the instrument was situated at the time of the record thereof, or authorized by law to be recorded in the office of the Secretary of State or of the State Auditor, certified by the proper custodian of such record to be a true copy thereof, may be recorded in any county, with the same force and effect that the original instrument would have if so recorded.—R. L. 1905, § 3349.

TITLE VI.—DISTRAINING BEASTS DOING DAMAGE.

§ 700. Who may distrain.—The owner or occupant of lands may distrain any beast doing damage thereon, either while upon the premises, or upon immediate pursuit of such beast escaping therefrom, and before returning to the inclosure or immediate care of the owner or keeper, and keep such beast upon his premises or in some public pound in his town until his damages shall be appraised, as hereinafter provided.—R. L. 1905, § 2776.

§ 701. Notice to owner.—The person distraining shall give notice to the owner of such beast, if known to him, within twenty-four hours if he resides in the same town, and within forty-eight hours if he resides in another town in the same county, Sundays excepted; specifying in such notice the time when and place where distrained, the number of beasts, and the place of their detention, and that at a time and place stated therein, which shall not be less than twelve hours after the service of such notice, nor more than three days after such distress, he will apply to a designated justice of the peace of the county for the appointment of appraisers to appraise the damages; but if the owner be unknown, or does not reside in the county, he shall apply for the appointment of such appraisers within twenty-four hours after such distress without notice. Upon such application the justice shall appoint, in writing, three disinterested freeholders of such town to appraise the damages, for which he shall receive a fee of fifty cents.—R. L. 1905, § 2777.

Note to § 700.—The common law is: "That every man is bound to keep his animals on his own land, and if he suffers them to escape and go upon the land of another, he is a trespasser." The common law has been extended, from time to time, by special acts and fewer exceptions to the general act, to all of the older and more populous counties of the state, narrowing the territory, year by year, in which cattle may be allowed to run at large. Even in the counties and parts of counties that are permitted to vote on the subject, unless the statute be strictly followed in the manner of voting, the canvass, the final passage, and duly posting up copies and recording the by-laws allowing stock to run at large, the common law will still prevail in such localities.

Distraining beasts doing damage is the taking and holding without process until payment is made, animals found and captured doing damage on one's lands. They must be distrained while on the lands, and if they escape therefrom they cannot be recaptured and distrained. One animal cannot be distrained for damage done by another at the same time though in the same field and belonging to the same person. An appraisalment of damages done by cattle distrained while doing damage must not include damage previously done. A party failing or neglecting to distrain beasts doing damage may maintain an action at law for such damages.

§ 702. **Appraisement.**—The appraisers, immediately after their appointment, shall be sworn, and view the damage done. They may take the evidence of any witnesses of the facts and circumstances necessary to enable them to ascertain the extent of such damage, and the insufficiency of any line fence on the premises where the damage was done, if any dispute shall arise touching the same, and may administer oaths to such witnesses. They shall certify under their hands the amount of such damages, and the costs of keeping such beasts to that time, with their fees, not exceeding \$1 per day each; and their determination as to such damages, and the sufficiency of such fence, if in dispute, shall be conclusive.—R. L. 1905, § 2778.

§ 703. **Tender and effect.**—At any time before proceedings are begun for such appraisement, or before action is brought for the recovery of damages, the owner or his agent may tender, to the person aggrieved by the depredation of such animal, the amount of damages which such owner may believe has been sustained. If such tender be accepted, no further damages shall be recovered in any way; if refused, and the person aggrieved fails to substantiate or recover as damages a sum greater than that tendered, no costs, disbursements or expenses shall be collected or recovered in his favor, but he shall pay the costs and disbursements of such owner.—R. L. 1905, § 2779.

§ 704. **Beasts impounded, etc.**—Unless the damages so ascertained, together with the fees of the appraisers and justice, shall be paid within twenty-four hours after appraisal, the person distraining shall cause the beasts to be put into the nearest pound of the same town, if there be one, and, if not, then in some secure inclosure therein, where the same shall remain until sold as hereinafter directed, or until such damages, fees, and the costs of keeping such beasts after appraisal shall be paid, or until otherwise seized or discharged according to law. From the time of seizure until discharged or sold, such beasts shall be furnished with suitable food, the expense of which, after the appraisal, shall be added thereto as additional costs; and if such beasts be put in a pound, certificate of appraisal shall be delivered to the keeper thereof.—R. L. 1905, § 2780.

§ 705. **Sale—Time and notice.**—The poundmaster shall receive and keep in the public pound any beasts so delivered to him, and, unless seized or discharged according to law within six days, shall sell the same or as many as shall be necessary to pay such damages, fees, and costs, at public auction, giving three days' posted notice thereof, and posting one such notice on the pound.—R. L. 1905, § 2781.

§ 706. **Sale if not impounded.**—If, by reason of there being no pound within such town, such beasts shall be kept within some other inclosure, and shall not be discharged therefrom in

Note to § 703.—To "tender" is to offer a sum of money in satisfaction of a claim, by producing and showing the amount to the party claiming, and expressing a willingness to pay it.

the manner hereinbefore provided within six days after being placed therein, the sheriff or any constable of the county shall sell such beasts, or so many as may be necessary to pay such damages, fees, and costs of keeping, upon the same notice as is required in sales of personal property on execution.—R. L. 1905, § 2782.

§ 707. **Redemption.**—The purchaser of any animal sold under the preceding two sections shall keep the same at least two months, during which time the owner may redeem such animal by paying all costs and charges of keeping, and the amount paid therefor at the sale, with interest thereon at 12 per cent per annum.—R. L. 1905, § 2783.

§ 708. **Proceeds of sale.**—From the proceeds of such sale the person making it shall retain his fees therefor, which shall be the same as are allowed constables on execution sales, and the costs of keeping such beasts, and he shall pay to the distrainer the damages so certified, with fees of the appraisers and justice; and the surplus, if any, shall be paid to the owner of the beasts, if known. If no one appears at the time of such sale, or within one week thereafter, who claims such surplus, the same shall be paid to the treasurer of the town, to be paid to the owner of the beasts, if claimed within one year after the distress. If not applied for within one year, the money shall be applied to the use of the town.—R. L. 1905, § 2784.

§ 709. **Taking distrained beasts a misdemeanor.**—If any person, without authority of law, and without first paying the damages and costs, takes any distrained beast out of the possession of the person making the distress, or that of the sheriff, constable, or poundmaster, as the case may be, without his consent, he shall be guilty of a misdemeanor, and shall also be liable to the person injured in double the amount of the damage done by such beasts.—R. L. 1905, § 2785.

§ 710. **Proceedings when owner not found.**—If unable to find the owner of any such animal, the chairman shall cause it to be confined in the public pound, if there be one, and, if not, in some other inclosure, for three days; and, if not then claimed, he shall cause it to be sold at public auction upon five days' posted notice. From the proceeds of such sale he shall deduct the amount of the forfeiture and expenses, and deposit the balance with the town treasurer, which shall be paid to the owner of such animal if applied for within one year. If not so applied for, the same shall be paid into the town treasury for the use of the town.—R. L. 1905, § 2795.

§ 711. **Beasts doing damage, laws.**—The foregoing is the statute in force throughout the state, where stock is not permitted to run at large by the general statutes. In counties where they have special herd laws, the provisions for appraisal and sale are like the above. But in those places where stock is permitted to run at large by the popular vote, beasts can only be

distraigned doing damage in the night time, during the summer, from 8 o'clock in the evening until sunrise, and the owner cannot recover damages unless the land where the breach or entry was made was protected by a lawful fence. With the above exceptions, the appraisal and sale in all cases can take place as given in the text. But beasts doing damage must be caught and distraigned in all cases before they escape from the lands.

TITLE VII.—MISCHIEVOUS DOGS.

§ 712. **Injury by dogs.**—The owner or keeper of any dog that shall kill, wound, or worry any domestic animal shall be liable to the owner thereof for the value of such animal, without proving notice to such owner or keeper, or knowledge by him, that such dog was mischievous or disposed to kill or worry such animals.—R. L. 1905, § 2786.

§ 713. **Keeping after notice—Penalty.**—Every person who shall keep or harbor a dog which has bitten any domestic animal, after having notice of such fact, shall pay a fine of \$5 for every day he keeps, harbors, or permits such dog to remain on his premises thereafter.—R. L. 1905, § 2787.

§ 714. **Worrying sheep.**—Any person may kill any dog found injuring or worrying sheep, and any owner of sheep may kill any dog found on his premises where sheep are kept, not under the restraint or control of his owner or other person.—R. L. 1905, § 2788.

§ 715. **Nuisance, when—Procedure.**—Any dog that habitually worries, chases or molests teams or persons traveling peaceably on the public roads, is a public nuisance. Upon complaint in writing made to a justice of the peace, containing a description of such dog, and giving his name and that of his owner, if known, and, if not, so stating, and that such dog is a public nuisance, the justice shall issue a summons, if such owner is known, commanding him to appear before said justice at his office at a time therein stated, not less than six nor more than ten days from the date thereof, to answer such complaint. Such summons shall be served not less than six days before the day of hearing thereon, in the same manner as other justice court summonses.—R. L. 1905, § 2789.

§ 716. **Owner not known.**—If it appears from the complaint that such owner is not known, ten days' posted notice, containing a description of such dog as given in the complaint, and stating that such complaint has been made, and the time and place of hearing thereon, shall be given in the town where such justice resides.—R. L. 1905, § 2790.

§ 717. **Hearing—Judgment.**—On the day of hearing the justice shall hear the evidence in the case, and, if he shall find therefrom that such dog is a public nuisance, he shall enter judgment accordingly, and thereupon shall order the constable to kill and bury such dog, which order such constable shall forthwith execute.—R. L. 1905, § 2791.

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§ 718. **Costs.**—Costs in the first instance shall be paid by the complainant, but if the dog is adjudged a nuisance, and the owner is known, judgment shall be entered against him therefor.—R. L. 1905, § 2792.

TITLE VIII.—RUNNING AT LARGE OF CERTAIN ANIMALS.

§ 719. **Penalty.**—The owner of any stallion over the age of one year, bull over the age of nine months, boar or ram over the age of three months, or of any breachy cattle, who shall suffer the same to run at large in any town, shall forfeit to such town \$5 for each day any such animal shall be so at large.—R. L. 1905, § 2793.

§ 720. **Owner notified—Proceedings.**—Upon notice that any such animal is running at large, the chairman of the town board shall forthwith notify its owner, and, if he does not immediately confine such animal, such chairman shall cause suit to be brought against him, in the name of the town, to recover the forfeiture, and such animal may be sold under execution in said action to pay the forfeiture and costs. After deducting the costs and expenses of suit, all such forfeitures collected shall be paid into the town treasury for the use of the road and bridge fund.—R. L. 1905, § 2794.

§ 721. **Castration of animals—Chairman, neglected by.**—If, after being notified as in this subdivision provided, the owner of any such stallion, bull, boar, or ram shall permit the same to continue or again to run at large, such chairman shall forthwith cause the same to be taken up and castrated in the usual manner, and shall have a lien on such animals for the expense of so doing, and may also recover the amount of such expense from the owner of such animal in a civil action brought in the name of the town: Provided, that any such ram running at large may be castrated without liability for damages by any person among whose sheep he shall be found. Any chairman who shall refuse or neglect to perform any of the duties required by this subdivision shall be guilty of a misdemeanor.—R. L. 1905, § 2796.

TITLE IX.—TO REGULATE THE PUBLIC SERVICE OF STALLIONS.

§ 722. **Registration board.**—Every person, firm or company standing or using any stallion for public service in this state shall cause the name, description and pedigree of such stallion to be enrolled by a stallion registration board hereinafter provided for, and shall secure a license from said board as provided in section 3 (§ 724) of this act. All enrollment and verification of pedigree shall be done in the division of animal husbandry of the college of agriculture of the University of Minnesota. All license certificates for stallions issued under this act shall be presented to and recorded by the register of deeds of the county or counties in which said stallion is used for public service.—G. L. 1907, Chap. 436, § 1.

§ 723. **Certificates.**—In order to carry out the provisions of this act, there shall be constituted a stallion registration board, whose duty it shall be to verify and register pedigrees; to pass upon certificates of veterinary examination; to provide, when necessary, for veterinary inspection; to issue stallion license certificates; to make all necessary rules and regulations; and to perform such other duties as may be necessary to carry out and enforce the provisions of this act. Said board shall hold meetings at the college of agriculture the first Tuesday and subsequent days of February, May, August and November of each year and such other meetings as may be necessary.

The stallion registration board shall be composed ex officio of the professor of animal husbandry of the Minnesota college of agriculture, who shall be, ex officio, secretary and executive officer of this board; the veterinarian of the state experiment station, and the president of the Minnesota Horse Breeders' association.—G. L. 1907, Chap. 436, § 2.

§ 724. **Affidavit—Disqualifications.**—In order to secure the license certificate herein provided for, the owner of each stallion shall present a certificate and affidavit from a qualified, licensed and reputable veterinarian, to the effect that he has personally examined such stallion and that to the best of his knowledge and belief said stallion is free from infectious, contagious or transmissible disease or unsoundness. The owner of such stallion shall also furnish to the stallion registration board the stud book registry certificate of pedigree of the stallion and all other necessary papers relating to his breeding and ownership. Upon verification of pedigree and certificate of breeding (in case of pure bred stallions) and receipt of veterinary certificate and affidavit as provided for in this act, a stallion certificate shall be issued to the owner.

The presence of any one or more of the following named diseases shall disqualify a stallion from public service, and are hereby defined as infectious, contagious or transmissible disease or unsoundness for the purposes of this act: Cataract, amaurosis, laryngeal hemiplegia (roaring or whistling), chorea (St. Vitus' dance, crampness, shivering, springhalt), bone spavin, ringbone, sidebone, glanders, farcy, maladie du coït, urethral gleet, mange, melanosis and curb when accompanied by curby hock.

The stallion registration board is hereby authorized to refuse certificate of enrollment to any stallion affected with any one of the diseases specified, and to revoke a previously issued stallion license certificate of any stallion found on examination to be so afflicted.—G. L. 1907, Chap. 436, § 3.

§ 725. **Temporary license.**—The stallion registration board is authorized in cases of emergency to grant temporary license certificates without veterinary examination, upon receipt of an affidavit of the owner to the effect that to the best of his knowledge and belief said horse is free from infectious, contagious or trans-

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missible disease or unsoundness. Temporary license certificates shall be valid only until veterinary examination can reasonably be made.—G. L. 1907, Chap. 436, § 4.

§ 726. **License to be displayed.**—The owner of any stallion standing for public service in this state shall post and keep affixed during the entire breeding season copies of the license certificates of such stallion, issued under the provisions of this act, in a conspicuous place upon the main door leading into every stable or building where the said stallion stands for public service. Said copies shall be printed in bold face and conspicuous type, not smaller than small pica, especially the words “pure bred,” “grade,” etc.—G. L. 1907, Chap. 436, § 5.

§ 727. **Form of registration.**—The license certificate issued after proper examination for a stallion whose sire and dam are of pure breeding and the pedigree of which is registered in a stud book, recognized by the United States department of agriculture, or in any American studbook or registry association that recognizes and records stallions that have five (5) pure top crosses, shall be in the following form:

STALLION REGISTRATION BOARD.

License Certificate of Pure Bred Stallion.

The pedigree of the stallion (name).....
owned by.....bred by.....
described as follows:Color.....
bred.....foaled in the year.....
has been examined at the college of agriculture, division of animal husbandry, and it is hereby certified that the said stallion is of pure breeding, is registered in a studbook recognized by the department of agriculture, Washington, D. C. The above named stallion has been examined by....., a duly licensed veterinarian, and is reported as free from infectious, contagious, or transmissible disease or unsoundness, and is licensed to stand for public service in the State of Minnesota.

(Signed).....

Professor of Animal Husbandry and Secretary Stallion Registration Board.

The license certificate issued after proper examination for a stallion whose sire or dam is not of pure breeding shall be in the following form:

STALLION REGISTRATION BOARD.

License Certificate of Grade Stallion.

The pedigree of the stallion (name).....
owned by.....bred by.....
described as follows:color.....
bred.....foaled in the year.....
has been examined at the college of agriculture, division of ani-

mal husbandry, and it is hereby certified that the said stallion is not of pure breeding and is, therefore, not eligible for registration in any studbook recognized by the department of agriculture, Washington, D. C.

The above named stallion has been examined by..... a duly licensed veterinarian, and is reported as free from infectious, contagious or transmissible disease or unsoundness, and is licensed to stand for public service in the State of Minnesota.

(Signed).....

Professor of Animal Husbandry and Secretary Stallion Registration Board.—G. L. 1907, Chap. 436, § 6.

§ 728. **False statements.**—Every bill, poster or advertisement issued by the owner of any stallion licensed under this act, or used by him for advertising such stallion shall contain a copy of his license certificate and shall not contain illustrations, pedigrees or other matter that is untruthful or misleading.—G. L. 1907, Chap. 436, § 7.

§ 729. **Registration fee.**—A fee not exceeding \$2 shall be paid to the secretary of the stallion registration board for the examination and enrollment of each pedigree and the issuance of a license certificate in accordance with the breeding of the stallion as above provided. A fee not exceeding \$1 shall be paid annually for the renewal of pedigree certificate and service license. Stallions shall be examined every four years until ten years of age, and after the first examination shall be exempt from examination at ten years of age or over.—G. L. 1907, Chap. 436, § 8.

§ 730. **Transfers.**—Upon a transfer of the ownership of any stallion licensed under the provisions of this act, the license certificate may be transferred by the secretary of this board to the transferee upon submittal of satisfactory proof of such transfer of ownership and upon payment of 50 cents.—G. L. 1907, Chap. 436, § 9.

§ 731. **Penalties.**—Violation of any of the provisions of this act shall be punished by a fine of not less than \$25 nor more than \$100 for each offense.—G. L. 1907, Chap. 436, § 10.

§ 732. **Fees—To whom paid.**—The funds accruing from the above named fees shall be used by the stallion registration board to defray the expenses of enrollment of pedigrees and issuance of licenses; to provide for the examination of stallions when necessary; to publish reports or bulletins containing lists of stallions examined; to encourage the horse breeding interests of this state; to disseminate information pertaining to horse breeding, and for any other such purposes as may be necessary to carry out the purposes and enforce the provisions of this act.

It shall be the duty of this board to make annual report, including financial statement, to the governor of the state, and all financial records of said board shall be subject to inspection at any time by public examiner.—G. L. 1907, Chap. 436, § 11.

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TITLE X.—ESTRAYS.

§ 733. **Who may take up.**—No person shall take up any estray, except horses or mules, unless such estray shall be found on lands owned or occupied by him in the town wherein he resides.—R. L. 1905, § 2769.

§ 734. **Finder to give notice—Penalty.**—Every finder of an estray within seven days thereafter, shall notify the owner thereof, if to him known, and request him to pay all reasonable charges and take such estray away; but, if such owner be to him unknown, he shall within ten days file a notice with the town clerk. Such clerk shall transmit a copy thereof to the register of deeds, who shall record the same in a book designated “Estray Book.” If the estray is of less value than \$5, such finder shall give posted notice thereof in said town, but, if the value exceeds \$5, he shall give four weeks’ published notice thereof. Such notice shall briefly describe the estray, giving its marks, natural and artificial, as near as practicable, naming the residence of the finder, and specifying the town, section, and time when taken up. For failure to give such notice, the finder shall be liable to the owner of such estray in double the amount of damages sustained by him thereby.—R. L. 1905, § 2770.

§ 735. **Appraisement.**—Every finder of an estray of the value of \$10 or more at the time of taking up shall also within one month thereafter cause the same to be appraised by a justice of the peace of such town, and the certificate of such appraisement shall be filed with the town clerk. The finder shall pay the justice fifty cents for such certificate, and six cents per mile for each mile necessarily traveled to make the same.—R. L. 1905, § 2771.

§ 736. **Charges for keeping.**—The person entitled to the possession of any such estray at any time within one year after such notice is filed with the town clerk may have the same restored to him upon proving his right thereto, and paying all lawful charges that occur in relation to the same. If such person and the finder cannot agree as to the amount of such charges, or upon what should be allowed for the use of such estray, either party, on notice to the other, may apply to a justice of the peace of such town to settle the same, who for that purpose may examine witnesses on oath. If any amount shall be found due to the finder, over the value of the use of such estray, the same, with costs, shall be a lien upon such estray, and the costs of such adjudication shall abide the decision of the justice.—R. L. 1905, § 2772.

§ 737. **Sale.**—If no claimant for such estray shall cause its return to him as before provided, and if such estray shall not have been appraised at more than \$10, the finder shall thereupon

Note to § 734.—To be an “estrays” under our statutes the animal must be found wandering, and its owner must be at the time unknown to the person taking it up. But cattle escaping from premises of their owner and found on adjacent premises, and taken up by a person knowing at the time who is their owner, are not “estrays” within the meaning of the statute. His remedy is under another statute.

become the owner thereof; but, if such appraised value exceeds \$10, the estray shall be sold at public auction by any constable of the county on the request of the finder. Notice thereof shall be given and the sale conducted and the same fees allowed as in case of sales upon justice's execution. The finder may bid at such sale, and at the time thereof shall deliver to such officer a statement in writing of his charges. After deducting such charges, if reasonable, and the costs of sale, the officer shall deposit the remainder of the money, together with said written statement, and a statement of the costs of sale, with the county treasurer, taking his receipt therefor. If the finder of any such estray shall fail to cause such sale to be made, he shall pay to the town the value of such estray, to be recovered in an action by the town.—R. L. 1905, § 2773.

§ 738. **Money, how disposed of.**—If the money so deposited be not claimed by the former owner of the estray within one year after such sale, the same shall be paid by the county treasurer into the public school fund.—R. L. 1905, § 2774.

§ 739. **Removal of estray—Neglect to give notice.**—If any person, without the consent of the finder, shall take away any estray taken up pursuant to this chapter, without first paying all lawful charges incurred in relation to the same, he shall be liable to the finder for the value of such estray; and, if any person taking up the estray shall neglect to comply with the provisions of this chapter, he shall be precluded from acquiring any right of property in such estray, and from receiving any charges or compensation in relation thereto.—R. L. 1905, § 2775.

TITLE XI.—ACTIONS AGAINST BOATS AND VESSELS.

§ 740. **For what liable.**—Every boat or vessel used in navigating the waters of this state shall be liable for the claims or demands hereinafter mentioned, and which shall constitute liens thereon:

1. For all debts contracted by the master, owner, agent, or consignee thereof on account of supplies furnished for its use, or on account of work done or services rendered on board for its benefit, or on account of labor done or materials furnished by mechanics, tradesmen, or others in and for building, repairing, fitting out, furnishing or equipping the same;

2. For all sums due for wharfage or anchorage of such boat or vessel within the state;

3. For all demands or damages accruing from the non-performance or malperformance of any contract of affreightment, or any contract touching the transportation of persons or property entered into by the master, owner, agent or consignee, of the boat, or vessel, on which such contract is to be performed; and

4. For all injuries done to persons or property by such boat or vessel.

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Provided, that no boat or vessel shall be so liable for any debt contracted on account of work done or services rendered on board of or for the benefit of such boat or vessel until such contract is fully performed.—R. L. 1905, § 4603.

§ 741. **Action—Warrant—Procedure.**—An action against a boat or vessel may be instituted by the filing in the district court of the county where it may be of a complaint against it by name, or if it have no name, by description, verified by the plaintiff or some person having knowledge of the facts, and setting forth the demand, and on whose account it accrued. Thereupon the clerk shall issue a warrant, returnable in 20 days, directing the sheriff to seize such boat or vessel and detain it in custody, with its tackle, apparel and furniture, until discharged by due course of law. Such warrant shall be served and returned as in the case of a writ of attachment. Upon the return of the warrant, proceedings shall be had against the boat or vessel seized in the same manner as if the action had been instituted against the person on whose account the demand accrued. The master, owner, agent, or consignee of the boat or vessel may appear on its behalf and answer the complaint. For sufficient cause shown, he shall be entitled to a continuance, but such continuance shall not operate as a discharge of the boat or vessel from custody, and no continuance shall be granted to the plaintiff.—R. L. 1905, § 4604.

§ 742. **Discharge of boat—Bond.**—If, before judgment, the master, owner, agent, or consignee give bond to the plaintiff, to be approved by the court, or by a judge or the clerk thereof in vacation, conditioned to satisfy the amount which shall be adjudged to be due to the plaintiff, with costs, the boat or vessel, with its tackle, apparel, and furniture, shall be discharged from custody.—R. L. 1905, § 4605.

§ 743. **Sale—Execution.**—If judgment be rendered in favor of the plaintiff against the boat or vessel, the court shall make an order, directing the sheriff to sell it, with its tackle, apparel and furniture, or such part thereof or interest therein as shall be necessary, to satisfy the judgment and costs, and the order shall be executed and returned in the same manner as an execution. If a bond has been given, as provided in the preceding section, and judgment rendered in favor of the plaintiff, execution shall issue for the amount thereof and costs against the principal and sureties on the bond.—R. L. 1905, § 4606.

§ 740 of this law provides that "an action against a boat or vessel may be instituted by the filing in the district court of the county where it may be, of a complaint," etc. The sheriff is to execute the warrant. § 741 provides for the giving of a bond "to be approved by the court or by a judge or the clerk thereof," etc.; the sheriff is to sell the boat or vessel. In fact the whole procedure laid out by the law in such cases seems to exclude such cases from justice courts. Yet we call attention again to § 40 and § 41 of this Manual, the latter of which provides that a justice shall have jurisdiction in "an action arising on contracts for the recovery of money only, if the sum claimed does not exceed \$100."

As the former procedure against boats and vessels has been changed by the Revised Laws, it is open to serious question whether a justice has jurisdiction in such cases, even to the extent of a claim involving no more than \$100.

§ 744. **Owner, etc., summoned to show cause.**—When judgment is rendered in favor of the plaintiff against a boat or vessel, and prior thereto it has been discharged from custody by the giving of bond or otherwise, or when for any reason such judgment, or any part thereof, remains unpaid for sixty days, the master and owner, or either, may be summoned to show cause why they should not be personally bound by the judgment. Such summons shall be subscribed by the judgment creditor, his agent, or attorney, and shall describe the judgment, specify the amount due thereon, and require the party summoned to show cause within 20 days after the service thereof, and may be served in the same manner as a summons in a civil action. It shall be accompanied by an affidavit of the person subscribing it, to the effect that the judgment has not been paid or satisfied, except as specified in the summons, to his knowledge, information, or belief.—R. L. 1905, § 4607.

§ 745. **Pleadings—Trial—Judgment.**—The party summoned may by answer deny that the judgment was duly rendered, or that he was master, owner, or part owner, of the boat or vessel, when the cause of action against it arose, and he may set up any defense which has arisen since the rendition of judgment, but no other defense. The party issuing the summons may demur or reply to the answer, and the party summoned may demur to the reply. The issues shall be tried and judgment, with costs, shall be rendered and enforced in the same manner as in a civil action.—R. L. 1905, § 4608.

§ 746. **Appeals.**—In all cases under this chapter, if judgment be rendered in favor of the plaintiff, the master, owner, agent, or consignee of the boat or vessel, and any other person interested, may appeal from the order or judgment of the court as in other cases.—R. L. 1905, § 4609.

§ 747. **Limitation of action.**—All actions under this chapter shall be commenced within one year after the cause of action accrues.—R. L. 1905, § 4610.

TITLE XII.—SALE OF UNCLAIMED PROPERTY.

§ 748. **Duty of consignee or bailee.**—Whenever any personal property shall be consigned to or deposited with any forwarding merchant, wharfinger, warehouseman, innkeeper, or storage or express company, such consignee or bailee shall immediately cause to be entered in a proper book kept by him a description of such property, with the date of its reception; and if not consigned or deposited for the purpose of being forwarded according to directions received by such consignee or bailee at or before the reception thereof, he shall immediately notify the owner by mail, if his name and residence be known or can be reasonably ascertained.—R. L. 1905, § 2797.

§ 749. **Sale of property, when—Notice.**—If any such property be not claimed or taken away within one year after its re-

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ception, it may be sold upon sixty days' notice; and, if perishable or subject to decay by keeping, it may be sold, if not taken away, within thirty days, upon ten days' notice; and if it be in a state of decay, or manifestly liable to decay, it may be summarily sold by order of a justice of the peace or any judge of the municipal court, after inspection, without notice. When not sold summarily, notice shall be given to the owner personally or by mail; but if the name of the owner be not known, and cannot with reasonable diligence be ascertained, published notice for the periods aforesaid shall be given.—R. L. 1905, § 2798.

§ 750. **Proceedings if property not claimed.**—If the owner or person entitled to such property shall not take the same away and pay the charges thereon, after notice as aforesaid shall have been given, the person having possession thereof, his agent or attorney, shall make and deliver to a justice of the peace of the same or an adjoining town, or to the judge of any municipal court, an affidavit, setting forth a description of the property, the date of its reception, the giving of the notice, and whether the owner is known or unknown.—R. L. 1905, § 2799.

§ 751. **Inventory by justice.**—Upon the delivery to him of such affidavit, the justice or judge shall cause the property to be opened and examined in his presence, and a true inventory thereof made, and shall annex to such inventory an order, under his hand, that the property therein described be sold at public auction, by any constable or police officer of the town where the same shall be.—R. L. 1905, § 2800.

§ 752. **Notice and return of sale.**—Said constable or police officer receiving such inventory and order shall sell such property at public auction to the highest bidder, in the manner provided by law for constables' sales under execution, upon ten days' posted notice. When the sale is completed he shall endorse upon the order aforesaid a return of his proceedings thereon, and return the same to the justice or clerk of said municipal court, together with the inventory and the proceeds of the sale, less his fees.—R. L. 1905, § 2801.

§ 753. **Disposition of proceeds.**—From the proceeds of such sale the justice or clerk of said municipal court shall pay all legal charges incurred in relation to the property, or, if the proceeds are not sufficient to pay all the charges, a ratable proportion of each, and the balance, if any, he shall immediately pay to the county treasurer of the county where such sale took place, and deliver a statement therewith, containing a description of the property sold, the gross amount of the sale, and the amount of costs, charges, and expenses paid to each person. The treasurer shall file such statement in his office, and make an entry of the amount received by him and the time when received.—R. L. 1905, § 2802.

§ 754. **Money deposited, how disposed of.**—If the owner of the property sold, or his legal representatives, at any time within

five years after such money is deposited in the county treasury, shall furnish satisfactory evidence to the treasurer of the ownership thereof, the treasurer shall pay to him the amount so deposited. If not so claimed within the time aforesaid, the money shall belong to the county, and be credited to its general revenue fund.—R. L. 1905, § 2803.

§ 755. **Fees of justices and constables.**—For services performed under the provisions of this chapter, justices of the peace or clerks of municipal courts shall be allowed one dollar for each day, and constables the same fees as are allowed by law for sales upon execution, and ten cents per folio for making an inventory of the property.—R. L. 1905, § 2804.

TITLE XIII.—MARRIAGE.

§ 756. **Marriage a civil contract.**—Marriage, so far as its validity in law is concerned, is a civil contract, to which the consent of the parties capable in law of contracting, is essential.—R. L. 1905, § 3552.

§ 757. **Who capable of contracting.**—Every male person who has attained the full age of 18 years, and every female person who has attained the full age of 15 years, is capable in law of contracting marriage, if otherwise competent.—R. L. 1905, § 3553.

§ 758. **Marriages prohibited.**—No marriage shall be contracted while either of the parties has a husband or wife living; nor within six months after either has been divorced from a former spouse; nor between parties who are nearer of kin than first cousins, whether of the half or whole blood, computed by the rules of the civil law; nor between persons either one of whom is epileptic, imbecile, feeble-minded, or insane.—R. L. 1905, § 3554.

§ 759. **By whom solemnized.**—Marriages may be solemnized by any justice of the peace in the county in which he is elected, and throughout the state by any judge of a court of record, the superintendent of the department for the deaf and dumb in the state school for the deaf and blind, or any licensed or ordained minister of the gospel in regular communion with a religious society.—R. L. 1905, § 3555.

§ 760. **Parties examined.**—Every person authorized by law to perform the marriage ceremony, before solemnizing any marriage, may examine the parties on oath, which oath he is authorized to administer, as to the legality of such intended marriage, and no such person shall solemnize a marriage unless he is satisfied that there is no legal impediment thereto.—R. L. 1905, § 3557.

§ 761. **License.**—Before any person shall be joined in marriage, a license shall be obtained from the clerk of the district court of the county in which the woman resides, or, if not a resident of this state, then from such clerk of the county where the marriage is to take place in this state.—R. L. 1905, § 3558.

§ 762. **Examination — License — Consent of parents.**—The clerk shall examine upon oath the party applying for a license,

relative to the legality of such contemplated marriage, and, if satisfied that there is no legal impediment thereto, he shall issue such license, with his official seal attached, and make a record thereof. If any person intending to marry shall be under age, and shall not have had a former husband or wife, such license shall not be issued unless the consent of the parents or guardians shall be personally given before the clerk, or certified under the hands of such parents or guardians, attested by two witnesses, one of whom shall appear before such clerk and make oath that he saw said parents or guardians subscribe, or heard them acknowledge the same. The clerk shall be entitled to a fee of \$2 for administering the oath, and issuing, recording, and filing all papers required. Any clerk who shall knowingly issue or sign a marriage license in any other manner than in this section provided shall forfeit and pay for the use of the parties aggrieved not to exceed \$1,000.—R. L. 1905, § 3559.

§ 763. **Form not essential.**—In the solemnization of marriage, no particular form shall be required, except that the parties shall declare in the presence of the judge, minister, or magistrate and the attending witnesses that they take each other as husband and wife; and in every case there shall be at least two witnesses present besides the person performing the ceremony.—R. L. 1905, § 3560.

§ 764. **Certificate given.**—The person solemnizing a marriage shall give to each of the parties a certificate thereof, specifying therein the names and residences of the parties, and of at least two of the witnesses present, and the time and place of the marriage.—R. L. 1905, § 3561.

§ 765. **Record and certificate.**—Every person solemnizing a marriage shall make a record thereof, and within one month make and file with the clerk of the district court of the county in which the license was issued a certificate, under his hand, containing the facts mentioned in section 3561 (§ 764), which certificate shall be filed, and recorded by said clerk in a book kept by him for that purpose; and said clerk shall be entitled to receive twenty-five cents for recording said certificate from the person offering the same for record.—G. L. 1905, Chap. 294, as amended, G. L. 1909, Chap. 386.

§ 766. **Penalty for failure.**—Every person solemnizing a marriage who shall neglect to make and deliver to the clerk a certificate thereof within the time above specified shall forfeit a sum not exceeding \$100, and every clerk who neglects to record such certificate shall forfeit a like sum.—R. L. 1905, § 3563.

§ 767. **Illegal marriage—False certificate.**—If any person authorized by law to join persons in marriage shall knowingly solemnize any marriage contrary to the provisions of this chapter, or willfully make any false certificate of any marriage or pretended marriage, he shall forfeit for every such offense a sum

not exceeding \$500, or may be imprisoned not exceeding one year.—R. L. 1905, § 3564.

§ 768. **By unauthorized persons—Penalty.**—If any person undertakes to join others in marriage, knowing that he is not lawfully authorized to do so, or knowing of any legal impediment to the proposed marriage he shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by imprisonment not more than one year, or by a fine of not more than \$500, or by both such fine and imprisonment.—R. L. 1905, § 3565.

TITLE XIV. — RESIGNATIONS—VACANCIES—REMOVALS.

§ 769. **Resignations—To whom made.**—Resignations shall be made:

1. By incumbents of elective offices, to the officer authorized by law to fill a vacancy in such office by appointment, or to order a special election to fill the vacancy.

2. By appointive officers, to the body, board, or officer appointing them, unless otherwise specially provided.—R. L. 1905, § 2666.

§ 770. **Offices become vacant, when.**—Every office shall become vacant on the happening of either of the following events, before the expiration of the term of such office:

1. The death of the incumbent.

2. His resignation.

3. His removal.

4. His ceasing to be an inhabitant of the state, or, if the office is local, of the district, county, city, or village for which he was elected or appointed, or within which the duties of his office are required to be discharged.

5. His conviction of any infamous crime, or of any offense involving a violation of his official oath.

6. His refusal or neglect to take the oath of office, or to give or renew his official bond, or to deposit or file such oath or bond within the time prescribed.

7. The decision of a competent tribunal declaring his election or appointment void.

8. The death of the person elected or appointed to fill a vacancy, or for a full term, before he qualifies, or before the time when by law he should enter upon the duties of the office to which he was elected or appointed, in which case the vacancy shall be deemed to take place at the time when his term of office would have begun had he lived.—R. L. 1905, § 2667.

§ 771. **Governor may remove, when.**—The governor may remove from office any clerk of the supreme or a district court, judge of probate, court commissioner, sheriff, coroner, auditor, register of deeds, county attorney, county superintendent of schools, county commissioner, county treasurer, or any collector, receiver, or custodian of public moneys, whenever it appears to him, by competent evidence, that either has been guilty of mal-

feasance or nonfeasance in the performance of his official duties; first giving to such officer a copy of the charges against him, and an opportunity to be heard in his defense.—R. L. 1905, § 2668.

§ 772. **Special commissioner to take testimony.**—Whenever charges are made against any such officer, the governor shall appoint a special commissioner to take and report the testimony for and against him to be used on the hearing. Each witness shall subscribe his name to his testimony when the same is reduced to writing.—R. L. 1905, § 2669.

§ 773. **Vacancy during recess of legislature.**—Whenever a vacancy occurs during the recess of the legislature, in any office which the legislature, or the governor by and with the advice and consent of the senate, or both branches of the legislature, is authorized to fill by appointment, unless otherwise specially provided, the governor may appoint some suitable person to perform the duties of such office for the time being. The person so appointed, before proceeding to execute his duties, shall qualify in the manner required by law of the officer in whose place he is appointed, and shall hold office until the vacancy is regularly filled as provided by law.—R. L. 1905, § 2670.

§ 774. **Appointment—How long to continue—Impeachment.**—Unless otherwise provided for, when a vacancy in an elective office is authorized to be filled by appointment, such appointment shall continue until the next general election occurring after there is sufficient time to give the notice prescribed by law, and until a successor is elected and qualified. Whenever any state officer, excepting the lieutenant governor, shall be temporarily suspended from the performance of the duties of his office by reason of his having been impeached, the governor shall appoint some suitable person to exercise the duties of such office during the time of such suspension; and such person, before entering upon his duties, shall comply with the requirements of law relating to the same, and during his incumbency shall be governed in the administration thereof by all laws enacted in reference thereto, and shall receive the compensation provided by law for such office.—R. L. 1905, § 2671.

§ 775. **Habitual drunkenness.**—The habitual drunkenness of any person holding office under the constitution or laws of the state shall be good cause for his removal from office by the authority and in the manner provided by law.—R. L. 1905, § 2672.

CHAPTER XIX.—JUSTICES' CRIMINAL JURISDICTION.

TITLE I.—IN GENERAL.

§ 776. **Jurisdiction to try and determine criminal cases.**—Justices under the statute have power and jurisdiction to act:

First—As peace officers and conservators of the peace, under subdivisions first, second, and third;

Second—As examining officers, to arrest, examine, and bind over to the district court persons committing indictable offenses than can be tried only in the district court;

Third—As a court having original, full and complete jurisdiction to hear, try and determine offenses not indictable and where jurisdiction is conferred by statute.

TITLE II.—PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES.

§ 777. **Preliminary steps.**—In proceedings to obtain security to keep the peace no warrant can issue until:

First—A complaint is made, reduced to writing, and is subscribed and sworn to by the complainant;

Second—The complainant, and any witnesses produced, are to be examined on oath, and it must appear that there is just cause to fear that the offense complained of may be committed—that is to say, the facts and circumstances elicited by such examination must be such as to satisfy a reasonable man in the exercise of a sound judgment, "that there is just cause to fear that any such offense may be committed," before the peace warrant can issue. By adhering to these salutary requirements of the statute before issuing a warrant, the justice will prevent abuses of the criminal law and many times check or avert frivolous, hasty or malicious prosecutions. (For forms of complaint, warrant, recognizance, etc., see Part Third and § 835.)

§ 778. **Amount of security.**—In fixing the sum, the justice should be governed by the particular circumstances of each case, having regard to the character of the offense charged, and the ability of the party to furnish security. It should not be set at so insignificant a sum that the recognizance would prove no protection to the person threatened or to the community, nor so high as to be excessive. If possible, it should be fixed within the reach of the party, if such sum will, in the justice's opinion, be sufficient to secure the good behavior of the defendant. But if it appear from the testimony that there is no just cause to fear the commission of the offense, the justice should promptly discharge the party, and when it plainly appears that the proceedings were

brought for the purpose of gratifying individual malice, he should order the complainant to pay the costs as directed in § 792. Otherwise they will be reported to and paid by the county.

§ 779. **Proceedings to arrest.**—Proceedings “to arrest and cause to come before them, persons who attempt to break the peace, persons who keep houses of ill-fame, or frequenters of the same, of common prostitutes, and compel them to give security for their good behavior, and to keep the peace,” under the third subdivision of § 787, may be by complaint, warrant, and examination of witnesses similar to the proceedings for obtaining security for the peace. (The provisions of the law under this title are to be found in the Penal Code, Part Second, § 1427 to § 1442, inclusive.)

TITLE III.—CRIMES AND ARREST.

The provisions of law covered by this title are a part of the Penal Code, Part Second, § 903 and § 1445 to § 1454, inclusive.

TITLE IV.—EXAMINATION OF OFFENDERS.

§ 780. **Examination of offenders.**—Crimes in their relation to the jurisdiction of justices of the peace may be divided into two classes:

First—Felonies and indictable misdemeanors, which are triable only in the district court; and

Second—Misdemeanors not indictable and which are triable before a justice of the peace.

The statute providing for the “examination of offenders” applies only to the first class above named, and the object of these proceedings is only to apprehend and safely keep persons charged with indictable offenses, by committing them to jail, or bailing them until the next term of the district court, if the probability of their guilt be found. The duty of a justice of the peace under these proceedings is not to hold a trial and determine as to the absolute guilt of the person accused, but only to act as an examining officer and determine as to the probability of his guilt, and hold him to answer to the grand jury for the offense, if the probability of his guilt be found.

The offenses for which these special proceedings were intended are given and defined in the Penal Code (see Part Second), and in such parts of the General Statutes of 1894, and of the various General Laws passed since the General Statutes of 1894, as are not repealed. To determine whether an offense complained of before a justice comes within the provisions of this chapter of the statutes or not, he must first look to see the highest punishment prescribed by the statute therefor, and if that exceeds a fine of \$100, or three months’ imprisonment, then it plainly comes within these provisions of the statutes for the “examination of offenders.”

§ 781 **Preliminary proceedings.**—Before any warrant issues the following proceedings should be had:

First—The justice must examine on oath the complainant and any witness provided by him, in reference to the offense charged.

Second—He must reduce the complaint to writing (or cause it to be done) and require the complainant to subscribe on oath to the same; and

Third—If it “appear”—That is to say, if the facts and circumstances elicited by the examination are such as to satisfy a reasonable man in the exercise of a sound judgment, “that any such offense has been committed,” he must issue his warrant for the apprehension of the offender. (For forms of complaints and warrants see Part Third and § 835.)

§ 782. **Proceedings on examination.**—If all parties are ready and willing to proceed with the examination on the return of the warrant with the prisoner, the examination should commence immediately. And if the prisoner chooses to waive an examination, he may be admitted to bail, if the offense be bailable and he offers sufficient bail, and be held to answer to the grand jury in the same manner as if his examination had been duly had and he had been held in bail. But if “occasion requires” an adjournment of the examination, the statute gives the justice unlimited authority to adjourn from time to time, not exceeding ten days at a time, and without the consent of the person charged, and to a different place in the county if more convenient and he thinks proper. The statute allows a reasonable time for the prosecution to obtain all the evidence it can, and for the accused to obtain counsel and witnesses in his behalf, allowing the justice to adjourn the examination from time to time for this purpose, or for any reason requiring an adjournment, not exceeding ten days at a time. As to what is a reasonable time for the full investigation of the case and final decision of the justice depends upon all the circumstances of the case, or, as the statute expresses it, “as occasion requires.” Meanwhile the prisoner may be committed to jail, or if the county jail is at an inconvenient distance, be remanded into the custody of the officer and kept by him in any safe and convenient place, or be admitted to bail until the adjourned day. Money cannot be accepted in lieu of bail at these adjournments, although it can after the prisoner is finally held to answer to the district court.

§ 783. **Examination, how conducted.**—The prosecution is not confined by the statute merely to questions relating to the offense charged, but may investigate “any matter connected with such charge which may be deemed pertinent.” The examination may be of the most searching character, and may be continued so long as anything of importance can be elicited by the prosecution respecting the guilt of the prisoner, or tending to implicate accomplices or persons not yet arrested.

§ 784. **Justice's final duty in holding prisoner.**—The justice should determine from all the evidence as given:

First—Whether the alleged offense has been committed.

Second—If so, whether there is reasonable ground to believe that the accused may have committed it so as to demand further inquiry, and for which he ought to be held to answer to an indictment of a grand jury. The prosecution should be able to make out a *prima facie* case by credible witnesses to hold the prisoner; but the same amount of evidence is not required as would be necessary for his conviction on trial. If, upon the whole, it appears to the justice, that no criminal offense has been committed, or, if there has been one committed, that the prisoner did not commit it, he must discharge him. But if it appears that a criminal offense has been committed, and that the prisoner probably committed it, he ought to be held to answer to the district court.

§ 785. Justice's duty as to bail.—It is for the justice to fix the amount of bail, and for the accused to offer sufficient bail, while the justice decides upon its sufficiency.

First—As to the amount of bail: The statute requires that the bail offered be "sufficient," and that bail "be taken in such sum as, in the opinion of the judge or magistrate, will secure the appearance" of the accused at the district court. In fixing the amount, the justice must be governed by the ability and circumstances of the prisoner, and fix it high enough, taking into consideration his means and the character of the offense, to make it certain, that he will appear at the district court, but not so high as to be oppressive, or as would in effect be a denial of bail.

Second—The sufficiency of bail is to be determined in the manner prescribed by statute (see §§ 797, 1431, 1472). The justice will not necessarily accept of such persons as offer themselves, who are willing to make the required affidavit. It often happens that parties consider themselves competent sureties from whom nothing could be collected if the recognizance should be forfeited, and the justice should, if he has any doubt of their responsibility, examine them strictly, upon oath, as to the amount of their property, its character and situation.

But if no sufficient bail is offered, or money in lieu thereof, or if the offense is not bailable, the prisoner must, finally, be committed to the county jail to await the action of the grand jury, and the justice has no further jurisdiction or authority in the case, and the prisoner can then only be released upon bail, or otherwise, by order of the district court.

§ 786. Return to district court should be prompt.—While the statute gives the justice ten days after such examination has been had, or said recognizance taken (see § 1477, Part Second) to certify and return to the district court the examinations and recognizances, it is better to make the return as soon as possible after the examination. The accused may wish to apply for release on bail (§ 1483) or on habeas corpus, or the county attorney may wish to examine the return some time before the sitting of court to prepare for bringing the matter before the grand jury, and for trial.

The provisions of the Penal Code which gives the laws under this title are to be found in Part Second of this Manual, § 903 to § 1487, inclusive.

TITLE V.—CRIMINAL CASES AND PROCEEDINGS THEREIN.

§ 787. **Jurisdiction.**—Justices of the peace have power and jurisdiction, throughout their respective counties, as follows:

First—To cause to be kept all laws made for the preservation of the peace.

Second—To cause to come before them, or any of them, persons who break the peace, and commit them to jail, or bail them, as the case may require.

Third—To arrest and cause to come before them, persons who attempt to break the peace, persons who keep houses of ill-fame, or frequenters of the same, or common prostitutes, and compel them to give security for their good behavior, and to keep the peace.

Fourth—To cause to come before them persons who are charged with committing any criminal offense and commit them to jail, or bail them, as the case may require; provided, however, that no justices of the peace shall have jurisdiction of any offenses committed within the limits of any city or village wherein a municipal court is organized and existing, but such offenses, otherwise cognizable by justices of the peace, and those arising under the charter ordinances or by-laws of the city or village shall be examined or tried by the municipal court therein existing; provided, that this act shall not apply to any cities or villages having justice of the peace courts established by home rule charter, nor to territory within one-half mile of the outer limits of the state fair grounds.—G. L. 1905, Chap. 104, as amended, G. L. 1907, Chap. 234.

§ 788. **Same—To try and determine.**—Justices have power to hold a court, subject to the provisions hereinafter contained, to hear, try, and determine all charges for offenses arising within their respective counties where the punishment prescribed by law does not exceed a fine of \$100 or imprisonment for three months.—R. L. 1905, § 4000.

§ 789. **Jurisdiction of justices.**—The jurisdiction in the foregoing section given to justices of the peace to hear, try, and determine misdemeanors and minor offenses not indictable is full and complete. Some of the principal offenses over which justices have original and complete jurisdiction are: Assault in the third degree (See Sec. 1066); Sabbath breaking (See Sec. 1163); fornication (See Sec. 1130); negligence in respect to fire (See Sec. 1189); petit larceny (See Sec. 1292), and a great number of other statutory misdemeanors and penal offenses set forth throughout the Revised Laws 1905, and General Laws 1905, 1907 and 1909. As to what persons are punishable for crimes, the dif-

ference between principals and accessories, and definitions of crimes themselves, see Penal Code, Part Second.

§ 790. **Complaint—Warrant.**—Upon complaint made to any justice that any such offense has been committed within the county, he shall examine the complainant on oath, and the witnesses produced by him, and reduce the complaint to writing, and cause the same to be subscribed by the complainant; and, if it appears that such offense has been committed, the justice shall issue his warrant, reciting the substance of the complaint, and require the officer to whom it is directed forthwith to arrest the accused and bring him before such justice, or some other justice of the same county, to be dealt with according to law, and in the same warrant may require the officer to summon such witnesses as shall be named therein to appear and give evidence at the trial.—R. L. 1905, § 4001.

§ 791. **Requisites of complaint.**—As to proceedings preliminary to the issuing of the warrant, read § 781, which applies with full force here. The complaint, being the very foundation of the justice's jurisdiction, and in the nature of an indictment, must contain a complete statement of the offense; for, upon trial, the evidence must be confined to, and can only support the complaint, and can by no means extend or supply what is wanting in it. It ought to be direct and certain as regards the party charged, the offense charged, and the particular circumstances of the offense charged, when they are necessary to constitute a complete offense.—§ 1436, Penal Code, Part Second and § 790. When the defendant is complained of by a fictitious or erroneous name, his true name may be substituted in the subsequent proceedings whenever discovered. The complaint ought to show the date when it is made, also the time when the offense was committed, so as to show that it is brought within the time limited by statute. Many penal statutes prescribe the time within which the prosecution must be had. Where no such provision is stated, the complaint must be brought within three years (except that murder never outlaws) after the commission of the offense, not counting the time the defendant has resided without the state. The complaint ought to show (and on trial the evidence ought to prove) that the offense was committed within the county. But offenses committed on the boundary lines of two counties, or within one hundred rods of the dividing line between them, may be alleged in the complaint to have been committed in either of them, and may be prosecuted and punished in either county. The complaint should contain the words "against the form of the statute in such case made and provided," and must always conclude with the words "against the peace and dignity of the state of Minnesota."—(Const., Art. VI, § 14.)

§ 792. **Security for costs.**—Before issuing the warrant, the justice ought, as a matter of public policy, in many cases, to require the complainant to give security for costs, according to § 833, espe-

cially when malice may be the motive for causing the arrest. But where there is no reason to doubt the good faith of the complainant, and it appears that the offense has been committed, the justice should not require such security, especially in cases where the complainant is unable to give it, for, by so doing, the ends of justice might be defeated. (For requisites of docket entries, read § 84. For forms of docket entries in criminal cases, see Part Third.)

§ 793. **Entries in docket.**—The justice shall enter the action in his docket, in which the state of Minnesota shall be plaintiff, and the accused defendant, and he shall make all such other entries as are required in civil actions.—R. L. 1905, § 4002.

§ 794. **Action, when tried.**—On the return of the warrant with the accused, the justice shall proceed to hear, try, and determine the action within one day, unless continued for cause.—R. L. 1905, § 4003.

§ 795. **Speedy trial.**—The object of the statute is to insure a speedy trial of all offenses triable before a justice, and the trial must proceed within one day, unless sufficient cause for continuance is shown. As to what is a sufficient cause for continuance, and the length of time the action should be continued, is left to the justice to determine from all the circumstances of the case. If the prosecution have been unable to obtain material witnesses, or the defendant has had no opportunity to obtain counsel or procure his witnesses, a reasonable time should be given for this purpose. The constitution declares that, "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defense."—Const., Art I, § 6. Before setting the time for the trial it would be well if the jury list could be made out (unless the defendant expressly waives his right to a trial by a jury) and have the venire issued returnable on the day to which the cause is continued. This is the proper time, also, to notify and require the attendance of the county attorney upon the day fixed for trial, unless he has been previously notified, or is already in attendance, or his presence is deemed unnecessary by the justice. Upon granting a continuance the justice cannot receive money in lieu of bail for the future appearance of the defendant.

§ 796. **Bail—Commitment.**—From the time of the return of the warrant until the conclusion of the trial, the accused may give bail with sufficient surety, for his appearance at the time fixed for the trial, and from time to time thereafter until discharged by law, or, in the event of failure to do so, he may be

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committed to jail for safe-keeping, by order of the justice, or left in the custody of the officer.—R. L. 1905, § 4004.

§ 797. **Form of recognizance.**—The following form of recognizance may be used in all courts not of record, upon the adjournment of any criminal action, proceeding, or examination:

“We, A. B. and C. D. and E. F., hereby give bail in the sum of.....dollars for the appearance of said A. B. upon theday of....., A. D., atM. of that day, before G. H., a justice of the peace of said county, at his office in the.....of....., in said county, to answer (the criminal prosecution, examination, or proceeding) for (state offense), and from time to time thereafter until discharged by law.

“Dated this.....day of....., 19....

“.....

“.....

“.....

“Taken and acknowledged before me the date aforesaid.,”

“.....”

—R. L. 1905, § 4005.

§ 798. **Arraignment and plea.**—The defendant is required to plead to the charge made against him “as stated in the warrant of arrest,” which must be distinctly read to him therefrom, and not from the complaint. If the defendant appears with counsel, he should at this time, before pleading guilty or not guilty, make any and all objections he may have affecting the jurisdiction of the justice over him, such as objections to the complaint, warrant, its service and return, or any irregularities of procedure. This is the time, also, to make application for change of venue, if he desires, and before a jury list is made out, and he is not required to pay the justice’s costs, as in civil cases. (See §§ 112, 114.) If he has been formerly convicted upon the same charge, or has been acquitted upon a former trial on the merits (and not on account of some irregularity in the proceedings) he should now plead that fact also. (See Const., Art. I, § 7.) But if the defendant does not appear at first with counsel he should be allowed to amend his plea or plead specially, or make any and all objections to the irregularity of the previous papers or proceedings at any time before trial that he does appear.

§ 799. **Arraignment—Plea.**—The charge made against the accused, as stated in the warrant of arrest, shall be distinctly read to him, and he shall be required to plead thereto, which plea the justice shall enter in his docket. If the accused refuses to plead, the justice shall enter the fact in his docket, with a plea of not guilty in his behalf.—R. L. 1905, § 4006.

§ 800. **On plea of guilty.**—If the accused pleads guilty to such charge, the court shall thereupon convict him of the offense charged, and render judgment thereon.—R. L. 1905, § 4007.

§ 801. **Plea of not guilty.**—If the plea is not guilty, and a

jury is waived by the accused, the justice shall proceed to try such issue, and determine the same according to the evidence produced against and in behalf of the accused.—R. L. 1905, § 4008.

§ 802. **Jury—List of names.**—After the joining of issue, unless the accused expressly waives his right to a trial by jury, the court, before proceeding to an investigation of the merits of the action, shall direct the sheriff or any constable of the county to make a list in writing of the names of twenty-four inhabitants of the county qualified to serve as jurors in the district court.—R. L. 1905, § 4009.

§ 803. **Striking names—Venire.**—From such list the complainant and accused may each strike six names, and, if either party refuses so to strike, the justice shall direct some suitable, disinterested person to strike such names for either or both of the parties so neglecting. When such names are stricken from the list, the justice shall issue a venire, directed to the sheriff or any constable of the county, requiring him to summon the twelve persons whose names remain to appear before such justice at a time and place to be named therein, as a jury for the trial of such cause.—R. L. 1905, § 4010.

§ 804. **Jury, how summoned.**—The officer to whom such venire is delivered shall summon such jury personally. He shall make a list of the persons summoned, which he shall certify and annex to the venire, and return the same with such venire to the justice within the time therein specified.—R. L. 1905, § 4011.

§ 805. **Deficiency, how supplied.**—If any such jurors fail to attend, or if there is legal objection to any that appear, the justice shall direct the sheriff or any constable who may be present and disinterested to summon bystanders or others who are competent, and against whom no cause of challenge appears, to supply the deficiency. Either party may challenge any juror for cause.—R. L. 1905, § 4012.

§ 806. **Summoning and challenging jury.**—The law as given in sections 245, 247 and 261 of this Manual concerning the qualifications of jurors, challenges, order of trial, conduct of the jury after retiring, and rendering of verdict, apply equally well to a jury in criminal cases, except that no fees need be advanced by the accused for a jury (nor for witnesses, nor for costs upon an appeal) in criminal matters. Also the following are proper causes for challenge for implied bias: (1) relationship by blood or marriage, within the ninth degree, to the person alleged to be injured by the offense charged, or to the person on whose complaint the prosecution was instituted, or to the defendant, or to any one of the attorneys either for the prosecution or for the defense; (2) standing in relation of guardian and ward, attorney and client, master and servant, or landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense, or on whose complaint the

prosecution was instituted, or in his employment on wages; (3) being a party adverse to the defendant in a civil action, or having complained against, or been accused by him in a criminal prosecution; (4) having served on a trial jury, which has tried another person for the offense charged in the complaint; (5) having been one of a jury formerly sworn to try the same complaint and whose verdict was set aside, or which was discharged without a verdict after the cause was submitted to it; (6) having served as a juror in a civil action brought against the defendant for the act charged as an offense.

§ 807. **New jury, when.**—If the officer to whom the venire is delivered fails to return the same as thereby required, or if the jury fail to agree and are discharged by the justice, a new jury shall be selected and summoned in the same manner, and the same proceedings shall thereupon be had as herein prescribed in respect to the first jury, unless the accused consents to be tried by the justice without a jury, in which case the issue shall be tried by the justice the same as if a jury had been waived.—R. L. 1905, § 4013.

§ 808. **Trial by jury.**—After being sworn the jury shall sit together and hear the allegations and evidence in the case, which shall be given in public and in the presence of the accused, and after hearing the same the jury shall be kept together in some convenient place until they agree on a verdict or are discharged by the court, and a sheriff or constable shall be sworn to take charge of them in like manner as upon jury trials in justices' courts in civil causes.—R. L. 1905, § 4014.

§ 809. **Conduct of trial.**—Rules given in §§ 166, 167, 195 of this Manual, concerning the examination of witnesses, and their competency and credibility, also §§ 216 to 239, are all applicable to criminal trials as well as civil, except as to the amount of evidence required for a conviction. Under the issue raised by the plea of not guilty, the prosecution must establish, by evidence, every fact and circumstance necessary to constitute the offense, and must support all the material allegations in the complaint; and under the same plea the defendant may give in evidence, not only everything which negatives the allegations in the complaint, but also all matters of excuse or justification, except the defense of a former conviction or acquittal, which must be specially pleaded and proved.

§ 810. **Confessions and testimony of accomplices.**—"A confession of a defendant, whether made in the course of judicial proceedings, or to a private person, cannot be given in evidence against him, when made under the influence of fear produced by threats; nor is it sufficient to warrant his conviction, without evidence that the offense charged has been committed." "A conviction cannot be had upon the testimony of an accomplice, unless he is corroborated by such other evidence as tends to convict the defendant of the commission of the offense, and

the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof."

§ 811. **Reasonable doubt.**—The statutes declare that "a defendant in a criminal action is presumed to be innocent until the contrary is proved; and in case of a reasonable doubt whether his guilt is satisfactorily shown, he is entitled to an acquittal."—(See § 940.) So that, while in civil cases it is sufficient that the weight of evidence be in favor of the affirmative, in criminal cases the prosecution must produce such an amount of proof as ordinarily satisfies an unprejudiced mind beyond a reasonable doubt. But it must be a reasonable and not a possible doubt. The law does not require unreasonable things at the hands of the prosecution, nor absolute certainty, but the jury (or justice) should be satisfied as reasonable men, so that they would be willing to act upon it in matters of the greatest importance to themselves.

§ 812. **Verdict.**—When the jury have agreed upon their verdict, they shall deliver the same to the justice publicly, who shall enter it in his docket.—R. L. 1905, § 4015.

§ 813. **Judgment on conviction.**—Whenever the accused is tried under the preceding provisions of this subdivision and found guilty, or is convicted on a plea of guilty, the justice shall render judgment thereon, and inflict such punishment, either by fine or imprisonment or both, as the nature of the case may require.—R. L. 1905, § 4016.

§ 814. **Acquittal—Malice—Judgment for costs.**—If the accused be acquitted, he shall be immediately discharged; and if the justice before whom the trial is had shall certify in his docket that the complaint was willful and malicious, and without probable cause, he shall enter judgment against the complainant for all costs that shall have accrued in the proceedings had upon the complaint. The complainant may stay such judgment for thirty days by giving a bond to the state, with sufficient sureties, conditioned to pay the same at the expiration of such time; but, if the complainant shall neglect to pay such judgment or give such bond, execution may issue as in other cases. The defendant in such judgment may appeal therefrom as in civil cases tried before a justice, and the cause shall be tried by the appellate court on the records and evidence in the case duly certified and returned by the justice.—R. L. 1905, § 4017.

§ 815. **Taxing costs to complainant.**—If the justice is satisfied that the complainant had no reasonable grounds for the prosecution, and that the complaint was made to gratify his malice against the defendant, he should not fail to make the proper certificate in his docket, and enter judgment against him, both as a punishment to him and to save the county the expense.

§ 816. **Appeal—Requisites.**—Any person convicted of a criminal offense by a justice may appeal to the district court upon complying with the following requisites within ten days thereafter:

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1. The person so appealing shall enter into a recognizance, with sufficient surety, to be approved by the justice, conditioned to appear before the district court on the first day of the general term thereof next to be held in and for the same county, and abide the judgment of said court therein, and in the meantime to keep the peace and be of good behavior.

2. He shall serve a notice upon the county attorney, or, in case there be no county attorney, or he is absent from the county, on the clerk of the district court, specifying the grounds of his appeal as follows, viz.: That the appeal is taken upon questions of law alone, or upon questions of law and fact.—R. L. 1905, § 4018.

§ 817. **Allowance of appeal.**—Upon compliance with the provisions of the preceding section, the justice shall allow the appeal and make an entry of such allowance in his docket, and all further proceedings on the judgment before the justice shall be suspended by such allowance. If the defendant has been committed to jail, the justice shall thereupon cause his certificate that an appeal has been perfected to be served upon the keeper of such jail, who shall forthwith release defendant from custody. The justice shall thereupon make a return of all the proceedings had before him, and cause the complaint, warrant, recognizance, notice of appeal, with proof of service thereof, and all other papers relating to such cause filed with him, to be filed in the district court of the same county on or before the first day of the general term thereof next to be held therein; and the complainant and witnesses may also be required to enter into a recognizance, with or without sureties, in the discretion of the justice, to appear at such term of court and abide the order of the court therein.—R. L. 1905, § 4019.

§ 818. **How tried.**—Upon an appeal on questions of law alone, the cause shall be tried in the district court upon the return of the justice. Upon an appeal on questions of law and fact, the cause shall be tried in the same manner as if commenced in the district court. Upon an appeal on questions of law alone, the justice, upon the request of either party, shall return to the district court a certified transcript of all the evidence offered or received upon the trial, which shall be filed with the clerk as a part of the return of the justice.—R. L. 1905, § 4020.

§ 819. **Conviction on appeal—Costs.**—The appellant shall not be required to advance any fees in claiming or prosecuting his appeal, but, if convicted in the district court, or if sentenced for failing to prosecute his appeal, may be required, as a part of the sentence, to pay the whole or any part of the costs of prosecution in both courts.—R. L. 1905, § 4021.

§ 820. **Failure to prosecute.**—If the appellant fails to enter and prosecute his appeal, he shall be defaulted on his recognizance, and the district court may award sentence against him for the offense whereof he was convicted, in like manner as if the

conviction had been in that court; and, if he is not then in custody, process may be issued to bring him into court to receive sentence.—R. L. 1905, § 4022.

§ 821. **Judgment against defendant and sureties.**—If the judgment of the justice is affirmed, or upon trial in the district court defendant is convicted and a fine assessed, judgment for said fine and costs in both courts may be rendered against defendant and his sureties.—R. L. 1905, § 4023.

§ 822. **Juror or witness in contempt.**—Every person summoned to appear before a justice, pursuant to the provisions of this subdivision, as a juror or witness, who shall fail to appear, and every witness appearing who refuses to be sworn or to testify, is liable to the same penalties and may be proceeded against in the same manner as provided by law in respect to jurors and witnesses in civil causes in justice's court.—R. L. 1905, § 4024.

§ 823. **Witness fees.**—Read §§ 295, 296, 297, 304, 260. The fees and mileage for witnesses are not to be tendered or paid in advance in criminal cases. "Witnesses for the state, in criminal cases or proceedings before any court of record or justice's court, shall receive for such attendance one dollar for each day, and six cents per mile in going to and returning from the place of attendance. The judges of the district court may, in their discretion, allow like fees to witnesses attending in behalf of any defendant in criminal cases or proceedings pending in the district court. In courts of record said witness fees shall be certified and paid in the same manner as jurors in said court are paid; and in justices' courts said fees shall be a county charge, and be allowed and paid by the county in which such services are rendered, in the same manner as other county charges.—§ 297.

§ 824. **Certificate of Conviction.**—Every justice, within twenty days after any conviction had before him, shall make and cause to be filed with the clerk of the district court of his county a certificate, under his hand, briefly stating therein the offense charged, the conviction and judgment, and the amount of fine collected. The clerk of the district court where the same is filed shall thereupon record, docket, index and make a permanent record of such conviction in books kept for that purpose in his office, and shall receive for such services the same compensation as is now by statute provided for entering and indexing all other similar actions coming into his office. And within ten days after the trial of any criminal action before him, such justice shall prepare an itemized statement of the costs taxed therein against the state and file the same with the county auditor. No bills for justice fees shall be allowed by the county board until such statement is filed as herein provided, and until all fines collected by such justice have been forwarded as provided by law. For each of such reports, required to be made by this section the justice may include in his taxable costs 25 cents.—R. L. 1905, § 4025, as amended G. L. 1907, Chap. 317.

§ 825. **Report to county attorney.**—Every such justice, within ten days after the conclusion of any criminal case prosecuted before him, shall make a report thereof to the county attorney, briefly stating in such report the title of the cause, the nature of the accusation, the result of the trial, and, if defendant is convicted, the nature and extent of the punishment, whether defendant was under the influence of intoxicating liquor when the offense was committed, the amount of costs paid or incurred by the state, and the amount of fines and costs, stated separately, paid by defendant.—R. L. 1905, § 4026.

§ 826. **Breach of peace.**—If the justice has knowledge that any person is about to commit an assault or engage in an affray, he shall issue his warrant, and thereupon proceed in the same manner as if a complaint had been made; and if any such offense is committed, threatened, or attempted in his presence, he shall immediately cause the offender to be arrested, for which purpose he may summon to his assistance all persons present, whose duty it shall be to aid him in preserving the peace and arresting and securing the offender. Any person so summoned who refuses his assistance shall forfeit \$5 to the use of the county.—R. L. 1905, § 4027.

§ 827. **Breach of recognizance.**—In case of the breach of any recognizance given in a criminal case in justice court, the same shall be certified and returned to the district court, to be proceeded in according to law.—R. L. 1905, § 4028.

§ 828. **Want of final jurisdiction—Proceedings.**—If, in the progress of any trial under the provisions of this chapter, it appears to the justice that he has not final jurisdiction in the case, and that the accused should be held to answer for the offense before the district court, the justice shall stop all further proceedings in the trial, and proceed as in other criminal cases cognizable before the district court.—R. L. 1905, § 4029.

§ 829. **Witnesses—Justice to summon.**—In all cases arising under this subdivision the justice shall summon the injured party, and all others whose testimony is deemed material as witnesses at the trial, and enforce their attendance by attachment, if necessary.—R. L. 1905, § 4030.

§ 830. **Judgment on conviction—Commitment—Execution.**—In all cases of conviction under this subdivision the justice shall enter judgment for the fine and costs against defendant, and may commit him until the judgment is satisfied, or issue execution on the judgment to the use of the county: Provided, that no justice shall commit a defendant under this section for more than three months.—R. L. 1905, § 4031.

§ 831. **Conviction must be founded on what.**—A conviction before a justice must be founded upon several distinct steps:

First—There must be a proper complaint.

Second—The defendant must be arraigned upon the charge made in the complaint, and plead “guilty” or “not guilty.”

Third—If he plead guilty, or if he be found guilty by the jury or court, he must be convicted.

Fourth—Judgment of imprisonment or fine (or both) and costs must be entered against him.

Fifth—If the fine be not paid, or an appeal be taken, he must be committed.

The docket must affirmatively show all these facts, and, besides, give a complete record of all the proceedings.

§ 832. **Attendance of witnesses on continuance.**—Whenever the trial of a cause is continued, the justice shall verbally notify the witnesses present to appear at the time to which the same is continued and testify therein, and no other notice or summons shall be necessary.—R. L. 1905, § 4032.

§ 833. **Security for costs.**—The justice may require that the complainant give security for costs, and, if he refuses, may dismiss the complaint.—R. L. 1905, § 4033.

§ 834. **Fines—How collected and paid over.**—All fines imposed by a justice, paid before the defendant is committed, shall be received by the justice. After commitment, payment thereof shall be made to the sheriff. In either case the officer receiving such fine shall pay the same over to the county treasurer within twenty days after he receives it. Any justice or other officer receiving any such fine who shall fail to pay the same to the county treasurer within the time aforesaid shall be guilty of a misdemeanor.—R. L. 1905, § 4034.

TITLE VI.—FORMS IN CRIMINAL PROCEEDINGS.

§ 835. **Schedule of forms.**—The following forms may be used under this subdivision:

Warrant.

“State of Minnesota, }
County of..... } ss.:

“The State of Minnesota, to the Sheriff or any Constable of Said County:

“Whereas, has this day complained in writing to me, on oath, that did, on the day of, A. D. 190..., at, in said county (here insert the complaint, whatever it may be), and prayed that the said.....might be arrested and dealt with according to law: Now, therefore, you are commanded forthwith to apprehend the said....., and bring him before me, to be dealt with according to law.

“Given under my hand this.....day of....., A. D. 190.....

“J. P., Justice of the Peace.”

STATE OF MINNESOTA.

Certificate of Conviction.

"State of Minnesota, }
County of.....} ss.:

"At a justice's court held at my office, in said county, before me,, a justice of the peace in and for said county, for the trial of.....for the offense hereinafter stated, the saidwas convicted of having, on the.....day of, A. D. 190...., at....., in said county (here state the offense as in the warrant); and, upon such conviction, the said court did adjudge and determine that the said.....should pay a fine of.....dollars (and, if imprisonment be adjudged, add), and be imprisoned in the county jail of the county of.....,days (if the fine be paid, add), and the said fine has been paid to me.

"Given under my hand this.....day of....., A. D. 190....

"J. P., Justice of the Peace."

Execution.

"State of Minnesota, }
County of.....} ss.:

"The State of Minnesota, to the Sheriff or any Constable of Said County:

"Whereas, at a justice's court held at my office, in said county, for the trial of.....for the offense hereinafter stated, the said.....was convicted of having, on the.....day of....., A. D. 190...., in said county (here state the offense as in the warrant), and, upon conviction, the said court did adjudge and determine that the said.....should pay a fine ofdollars and costs; and, whereas, the said fine and costs have not been paid by the said....., these are therefore to command you to levy distress on the personal property (etc., as in execution against such property in civil cases).

"J. P., Justice of the Peace."

Commitment upon Sentence.

"State of Minnesota, }
County of.....} ss.:

"The State of Minnesota, to Any Constable, and the Keeper of the Common Jail of Said County:

"Whereas, at a justice's court, held at my office in said county, for the trial of.....for the offense hereinafter stated, the said.....was convicted of having on the.....day of, A. D. 190...., in the said county (here state the offense as in the warrant), and, upon conviction, the said court did adjudge and determine that the said.....should be imprisoned in the common jail of said county for.....days. Therefore you, the said constable, are commanded forthwith to convey and deliver the said.....to the said keeper; and

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you, the said keeper, are hereby commanded to receive the saidinto your custody, in the said jail, and him there safely keep until the expiration of said.....days, or until he shall be thence discharged by due course of law.

"Given under my hand this.....day of....., A. D. 190.....

"J. P., Justice of the Peace."

Commitment after Arrest and before Trial.

"State of Minnesota, }
County of.....} ss.:

"The State of Minnesota, to the Sheriff or Any Constable, and to the Keeper of the Common Jail of Said County:

"Whereas,has been this day brought before the undersigned, one of the justices of the peace in and for said county, charged on the oath of.....with having on theday of....., A. D. 190....., at....., in said county (here state the offense as in the warrant); and, the saidnot having given bail to appear and answer for the said offense, therefore you, the said constable, are commanded forthwith to convey and deliver into the custody of the said keeper the body of the said....., and you, the said keeper, are hereby commanded to receive the said..... into your custody in the said jail, and him there safely keep until he shall be required to be brought before the court to be tried, or shall be otherwise discharged by due course of law.

"Given under my hand this.....day of....., A. D. 190.....

"J. P., Justice of the Peace."

Order to Bring up Prisoner.

"State of Minnesota, }
County of.....} ss.:

"The State of Minnesota, to the Keeper of the Common Jail of Said County:

"The undersigned, one of the justices of the peace in and for said county, sitting as a court for the trial of....., now in your custody, in the common jail of said county, do hereby order you to bring the said.....forthwith before me at my office in the.....of....., in said county, together with the warrant by which he was committed to your custody, in order that he may be tried.

"Given under my hand this.....day of....., A. D. 190.....

"J. P., Justice of the Peace."

STATE OF MINNESOTA.

Commitment Where Justice, on the Trial, Finds He Has not Jurisdiction.

“State of Minnesota, }
County of.....} ss.:

“The State of Minnesota, to the Sheriff or Any Constable of Said County:

“Whereas,, of....., has been brought this day before the undersigned, one of the justices of the peace of said county, charged on the oath of.....with having on theday of....., A. D. 190...., at....., in said county, committed the offense of (here state the offense charged in the warrant), and, in the progress of the trial on said charge, it appearing to the said justice that there is probable cause to believe that said.....had been guilty of the offense of (here state the new offense found on the trial), committed at the time and place aforesaid, of which offense the said justice has not final jurisdiction; and whereas, after examination had, in due form of law, touching the said charge and offense last aforesaid, the said justice did adjudge that the said offense had been committed, and that there was probable cause to believe the said.....to be guilty thereof; and whereas the saidhas not offered sufficient bail for his appearance to answer for said offense, you are therefore commanded forthwith to take the said....., and him convey to the common jail of said county, the keeper whereof is hereby required to detain him in custody in said jail until he shall be thence discharged according to law.

“Given under my hand this.....day of....., A. D. 190....

—R. L. 1905, § 4035.

“J. P., Justice of the Peace.”

CHAPTER XX.—FORCIBLE ENTRIES AND UNLAWFUL DETAINERS.

§ 836. **Forcible entry—Penalty.**—No person shall make entry into lands or tenements except in cases where his entry is allowed by law, and in such cases he shall not enter by force, but only in a peaceable manner. If any person does to the contrary, he shall be punished by fine.—R. L. 1905, § 4036.

§ 837. **Forcible entry or detainer—Restitution.**—When any person has made unlawful or forcible entry into lands or tenements and detains the same, or, having peaceably entered, unlawfully and forcibly detains the same, he shall be fined, and the person entitled to the premises may recover possession thereof in the manner hereinafter provided.—R. L. 1905, § 4037.

§ 838. **Forcible entries and unlawful detainers.**—Two distinct classes of cases are provided for in this chapter of the statutes:

First—Lands unlawfully or forcibly entered and detained;

Second—Lands lawfully and peaceably entered, but unlawfully detained. In either case the complaint must correctly set forth how the defendant holds the premises, whether under lease, or former ownership, or otherwise; also, how the plaintiff claims the same, whether under foreclosure of mortgage, or sale on execution, the time of redemption having expired, or, after termination of lease, or after the covenants thereof have been broken; and in this, as well as in all cases, it must particularly describe the premises, and must show all the facts necessary to give the justice jurisdiction of the case. Where notice is required to terminate a tenancy, the notice should be alleged in the complaint; but when demand and notice are so alleged and not denied by the answer, they stand admitted, and need not be proved. “Estates at will may be determined by either party, by three months’ notice in writing for that purpose, given to the other party; and when the rent reserved is payable at periods of less than three months, the time of such notice shall be sufficient, if it is equal to the interval between the times of payment; and in all cases of neglect or refusal to pay the rent due on a lease at will, fourteen days’ notice in writing to quit, given in writing by the landlord to the tenant, is sufficient to determine the lease.”—R. L. 1905, § 3332.

In an action, however, to recover possession of leased premises for non-payment of rent due, no demand of the rent need be pleaded or proved.

§ 839. **Tenant, etc., holding over—Removal.**—When any person holds over lands or tenements after a sale thereof on an execution or judgment, or on foreclosure of a mortgage by adver-

tisement, and expiration of the time for redemption, or after termination of the time for which they are demised or let to him, or to the person under whom he holds possession, or contrary to the conditions or covenants of the lease or agreement under which he holds, or after any rent becomes due according to the terms of such lease or agreement, or when any tenant at will holds over after the determination of any such estate by notice to quit, in all such cases the person entitled to the premises may recover possession thereof in the manner hereinafter provided.—R. L. 1905, § 4038.

§ 840. **Limitation.**—No restitution shall be made under this chapter of any lands or tenements of which the party complained of, or his ancestors, or those under whom he holds the premises, have been in quiet possession for three years next before the filing of the complaint, after the determination of the leasehold estate that he may have had therein.—R. L. 1905, § 4039.

§ 841. **Complaint and summons.**—The person complaining shall file a complaint with a justice of the peace, describing the premises of which possession is claimed, stating the facts which authorize the recovery, and praying for restitution thereof. The justice shall thereupon issue a summons, directed to the sheriff or any constable of the county, commanding him to summon the person against whom such complaint is made to appear before him on a day and at a place in such summons named, which shall not be less than three nor more than ten days from the day of issuing the same. A copy of the complaint shall be attached to the summons, which shall state that it is so attached, and that the original has been filed.—R. L. 1905, § 4041.

§ 842. **Summons, how served.**—The summons shall be served at least three days before the return day thereof by delivering a copy to the person against whom it is issued or if such person be a corporation, a minor under fourteen years of age or a person under guardianship, by delivering a copy as provided in the case of a service of summons in a civil action in the district court; but in case such person cannot be found in the county, the summons may be served on him at least six days before the return day thereof, by leaving a copy thereof at his last usual place of abode with a member of his family, or a person of suitable age and discretion residing at such place, or if he had no place of abode, by leaving a copy thereof upon the premises described in the complaint with a person of suitable age and discretion occupying the same or any part thereof;

Provided, that in case the defendant has no usual place of abode and cannot be found in the county, of which the return of the officer shall be prima facie proof, and further that there is no person actually occupying the premises described in the complaint, then upon the filing of an affidavit by the plaintiff or his attorney in the court in which said action is brought stating that no person is actually occupying said premises and that he be-

believes the defendant is not in said state, or cannot be found therein, and either that he has mailed a copy of the summons to the defendant at his last known address, or that such address is not known to him, service of the summons may be made upon such defendant by posting the summons in a conspicuous place on said premises one week and by one week's published notice thereof in some newspaper printed and published in the county wherein said action is brought, or, if there be no newspaper therein, then in some newspaper printed and published at the capitol of the state and if upon the return day the said defendant or his attorney does not appear in said court in said action then the trial thereof shall be continued for one week to enable the defendant to make his appearance and defend therein.—R. L. 1905, § 4041, as amended G. L. 1909, Chap. 496, § 1.

§ 843. **Trial.**—After the return of the summons, at the time and place appointed therein, if the defendant appear, he may answer the complaint, and all matters in excuse, justification, or avoidance of the allegations thereof shall be set up in the answer; and thereupon the justice shall hear and determine the action, unless he shall adjourn the trial as provided in the next section, but either party may demand a trial by jury. The proceedings in such action shall be the same as in other civil actions in a justice's court, except as in this chapter otherwise provided.—R. L. 1905, § 4042.

§ 844. **Adjournment—Security for rent.**—The justice, in his discretion, may adjourn the trial, but not beyond six days after the return day, unless by consent of parties; but in all cases mentioned in § 4038 (§ 839), except in an action upon a written lease signed by both parties thereto, if the defendant, his agent or attorney, shall make oath that he cannot safely proceed to trial for want of a material witness, naming him, and that he has made due exertion to obtain said witness, and believes that, if such adjournment be allowed, he will be able to procure the attendance of such witness at the trial, or his deposition, and shall give bond conditioned to pay to the plaintiff all rent which may accrue during the pendency of the action, and all costs and damages consequent upon such adjournment, the justice shall adjourn the trial for such time as may appear necessary, not exceeding three months.—R. L. 1905, § 4043.

§ 845. **Judgment—Fine—Execution.**—If, upon the trial, the justice or jury find the defendant or any of several defendants guilty of the allegations in the complaint, the justice shall thereupon enter judgment that the plaintiff have restitution of the premises, and tax the costs for him, and, when the action is brought under § 4037 (§ 837), shall impose such a fine against the defendant, not exceeding \$100, as he may deem just. The justice shall issue execution in favor of the plaintiff for such costs, and also issue a writ of restitution. If the justice or jury shall find that the defendant is not guilty as aforesaid, he shall

enter judgment for the defendant, tax the costs against the plaintiff, and issue execution therefor.—R. L. 1905, § 4044.

§ 846. **Disagreement.**—If the jury cannot agree upon a verdict, the justice may discharge them, and issue a venire, returnable forthwith, or at some other time agreed upon by the parties or fixed by the justice, for the purpose of impanelling a new jury.—R. L. 1905, § 4045.

§ 847. **Writ of restitution to be issued on notice to quit—Effect of appeal.**—If the party against whom judgment for restitution is rendered or his attorney state to the justice that he intends to take an appeal, a writ of restitution shall not issue for twenty-four hours after judgment;

Provided, that in an action on a lease, against a tenant holding over after the expiration of the term thereof, or a termination thereof by a notice to quit, such writ may issue forthwith notwithstanding such notice of appeal, if the plaintiff give a bond conditioned to pay all costs and damages in case on the appeal the judgment of restitution be reserved and a new trial ordered.—R. L. 1905, § 4046, as amended G. L. 1909, Chap. 496, § 2.

§ 848. **Appeal—Stay.**—If either party feels aggrieved by the judgment he may appeal within ten days as in other cases triable before justices of the peace except that if the party appealing remains in possession of the premises, his bond shall be conditioned to pay all costs of such appeal and abide the order the court may make therein and pay all rents and other damages justly accruing to the party excluded from possession during the pendency of the appeal.

Upon the taking of such appeal all further proceedings in the case shall be stayed, except that in an action on a lease against a tenant holding over after the expiration of the term thereof or termination thereof by notice to quit, if the plaintiff give bond as provided in § 4046. (§ 847) a writ of restitution shall issue as if no appeal had been taken and the appellate court shall thereafter issue all needful writs and processes to carry out any judgment which may be rendered in such court.—R. L. 1905, § 4047, as amended G. L. 1909, Chap. 496, § 3.

§ 849. **Appeal after issuance of writ—Stay.**—If a writ of restitution has issued before the taking of an appeal, the justice shall give appellant a certificate of the allowance thereof and upon service of such certificate upon the officer having the writ he shall cease all further proceedings thereunder and if the writ has not been completely executed the defendant shall remain in possession of the premises until the determination of the appeal, but this section shall not apply to a case where judgment for restitution has been entered on a lease against a tenant holding over after the expiration of the term thereof or determination thereof by notice to quit.—R. L. 1905, § 4048, as amended G. L. 1909, Chap. 496, § 4.

§ 850. **Execution of the writ of restitution.**—The officer holding the writ of restitution shall execute the same by making a demand upon defendant if he can be found in the county or any adult member of his family holding possession of the premises, or other person in charge thereof, for the possession of the same, and that the defendant remove himself, his family, and all of his personal property from such premises within twenty-four hours after such demand.

If defendant fails to comply with the demand, then the officer shall take with him, necessary, the force of the county and whatever assistance may be necessary, at the cost of the complainant, remove the said defendant, his family and all his personal property from said premises detained, immediately and place the plaintiff in the possession thereof.

In case defendant cannot be found in said county, and there is no person in charge of the premises detained, so that no demand can be made upon the defendant, then the officer shall enter into the possession of said premises, breaking in if necessary, and shall remove all property of the defendant at the expense of the plaintiff.

The plaintiff shall have a lien upon all of the goods upon said premises for the reasonable costs and expenses incurred for removing said personal property and for the proper caring and storing the same, and the costs of transportation of the same to some suitable place of storage, in case defendant shall fail or refuse to make immediate payment for all the expenses of such removal from said premises and plaintiff shall have the right to enforce such lien by detaining the same until paid, and in case of nonpayment for sixty days after the execution of the writ, shall have the right to enforce his lien and foreclose the same by public sale as provided for in case of sales under chapter 328 of the general laws of 1905.—G. L. 1909, Chap. 496, § 5.

§ 851. **Not to be dismissed for form—Amendments—Return.**—In all cases of appeal, the appellate court shall not dismiss or quash the proceedings for want of form only, provided they have been conducted substantially in accordance with the provisions of this chapter. Amendments may be allowed at any time, upon such terms as to the court may appear just, in the same cases and manner and to the same extent as in civil actions. The court may compel the justice, by attachment, to make or amend any return which is withheld or improperly or insufficiently made.—R. L. 1905, § 4049.

§ 852. **Form of verdict.**—The verdict of the jury or the finding of the court in favor of the plaintiff in an action under this chapter shall be substantially in the following form:

“At a court held at, on the day of, 190, before, a justice of the peace in and for the county of, in an action between, plaintiff, and, defendant, the jury (or, if the

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action be tried without a jury, the court) find that the facts alleged in the complaint are true, and that the said defendant is guilty thereof, and the said plaintiff ought to have restitution of the premises therein described without delay."

If the verdict or finding be for the defendant, it shall be sufficient to find that the facts alleged in the complaint are not true, and that the defendant is not guilty.—R. L. 1905, § 4050.

§ 853. **Forms of summons and writ.**—The summons and writ of restitution may be substantially in the following forms:

Form of Summons.

"State of Minnesota, }
County of..... } ss.:

"The State of Minnesota, to the Sheriff or Any Constable of the County Aforesaid:

"Whereas,, of, hath filed with the undersigned, a justice of the peace in and for said county, a complaint against....., of....., a copy whereof is hereto attached: Therefore you are hereby commanded to summon the said....., if to be found in said county, to appear before the undersigned on the.....day of....., 190...., at.....o'clock in the.....noon, at....., then and there to make answer to and defend against the complaint aforesaid, and further to be dealt with according to law; and make due return to me of this summons, with your doings thereon.

"Dated at....., this.....day of....., 190....

.....
"Justice of the Peace."

Form of Writ of Restitution.

"State of Minnesota, }
County of..... } ss.:

"The State of Minnesota, to the Sheriff or Any Constable of the County Aforesaid:

"Whereas, plaintiff, of....., in an action for an unlawful or forcible entry and detainer (or for an unlawful detainer, as the case may be) at a court held at..... in the county aforesaid, on the.....day of....., 190...., before....., a justice of the peace in and for said county, by the consideration of the court, recovered a judgment against....., of....., to have restitution of (here describe the premises as in the complaint):

"Therefore, you are hereby commanded that, taking with you the force of the county, if necessary, you cause the said..... to be immediately removed from the aforesaid premises, and the said.....to have peaceable restitution of the same. You are also hereby commanded that of the goods and chattels of the said.....within said county you cause to be levied, and,

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the same being disposed of according to law, to be paid to the said.....the sum of.....dollars, being the costs taxed against the said.....for the said....., at the court aforesaid, together with twenty-five cents for this writ; and thereof, together with this writ, make due return within thirty days from the date hereof, according to law.

“Dated at....., this.....day of....., 190....

—R. L. 1905, § 4051.

.....
“Justice of the Peace.”

CHAPTER XXI.—STATE TRAINING SCHOOL.

§ 854. **Location and management.**—The State Training School for Boys and Girls shall be continued at its present site, at Red Wing, in the county of Goodhue, and be under the general management of the State Board of Control.—R. L. 1905, § 1905.

§ 855. **Who may be committed.**—Whenever any infant over the age of eight years and under the age of seventeen years shall hereafter be duly convicted in any of the courts of this state of any crime prescribed by any general law of this state, punishable by imprisonment, except the crime of murder, or when any such infant shall be found by any of said courts after due trial, as herein provided, to be incorrigibly vicious or to be an habitual tramp or vagrant, said court may thereupon commit such infant to the Minnesota State Training School for Boys and Girls. Provided, that no child shall be so committed who is a proper subject for commitment to the state public school at Owatonna.—G. L. 1905, Chap. 233, § 1.

§ 856. **Complaint.**—No infant shall be committed to said training school as incorrigibly vicious or as an habitual tramp or vagrant unless upon formal complaint in writing, signed and verified by the person making the same, and filed in the court, setting forth the name, age and place of residence, if known, of said infant, the name and residence of its parent or guardian, and of the person in whose custody such infant may be, and stating the conduct and habits of the child, and particularly the facts constituting the ground of complaint.—G. L. 1905, Chap. 233, § 2.

§ 857. **Proceedings.**—Upon the filing of the complaint, as provided in the preceding section, the court shall, if said infant is not already in custody, cause him to be apprehended and brought before the court, for which purpose the court shall issue a warrant to the proper officer, and shall also thereupon cause a summons to be issued to the parent or guardian of said infant or to the person in whose custody he may be, requiring such parent, guardian, or person to appear before the court at a time and place to be fixed by the court and stated in said summons, and show cause, if any, why such infant should not be so committed, which summons shall be served on such parent, guardian or person having the custody of said infant, at least twenty-four hours before such hearing, and shall also forthwith notify the probation officer of the county, if any, of the time and place of hearing. Until the hearing the court shall provide for the care and custody of the accused infant, but no child under twelve years of age shall be committed to jail, and in case where committed, the child shall be subject to bail.—G. L. 1905, Chap. 233, § 3.

§ 858. **Guardian ad litem.**—If such infant has no parent, or guardian, or person having his custody, living at the place, or if such parent, guardian or person, being so summoned, fails or neglects to appear at the hearing and act on behalf of the child, the court shall appoint some suitable person to appear at said hearing and protect the interests of the infant, and the person so appointed shall be given an opportunity to investigate the facts and show cause why such child should not be committed. Provided, that if the probation officer of the county is present, it shall be his duty to investigate the facts and defend the interest of said child at the hearing. All hearings under this act shall take place separate and apart from the trial of criminal cases.—G. L. 1905, Chap. 233, § 4.

§ 859. **Evidence.**—The same presumption of innocence and the same rules of evidence shall prevail at the hearing in behalf of such infant as in the trial of criminal causes, and no infant shall be so committed unless the charges alleged in the complaint are proven by the testimony of at least two disinterested witnesses, and the name, age and place of residence of all witnesses shall be given. All evidence shall be reduced to writing and a finding made thereon and entered in the record of the court. In case of hearings before justices of the peace or municipal courts the record and all the evidence shall be forthwith transmitted, together with the complaint, to the judge of the district court of the county in which such hearing is had, who shall thereupon examine the same, and approve or disapprove the findings in writing thereon, and return the same to the justice of the peace or municipal court from whom received, and no commitment shall be made by said justice of the peace or municipal court until the proceedings have been so examined and approved by such district judge.—G. L. 1905, Chap. 233, § 5.

§ 860. **Commitment.**—With the commitment the court or justice shall transmit by the officer executing the same to the superintendent of the training school a copy of the record of the case, including all the evidence, and a written statement of such other particulars concerning the child as can be ascertained. Sentence of commitment may be stayed by the court, and the infant placed on probation in the discretion of the court.—G. L. 1905, Chap. 233, § 6.

§ 861. **Infants admitted by order of United States courts—Commitment from federal courts.**—Said board shall receive into its custody and guardianship, and keep until duly discharged, all infants within the prescribed ages committed to said training school by order of any court of the United States within the state for offenses committed against the laws of the United States, and for the support of which infants the United States shall undertake to pay fifty cents each per day.—R. L. 1905, § 1908, as amended, G. L. 1909, Chap. 122.

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§ 862. **Duties of the board.**—It shall be the duty of the board of control of state institutions to receive, clothe, maintain and instruct, at the expense of the state, all infants duly committed, as herein provided, to said training school, and keep them in their custody until their arrival at the age of twenty-one (21) years, unless sooner discharged, apprenticed, paroled, or transferred, and said board may, in its discretion, place any of said children, until their arrival at eighteen (18) years of age, in suitable homes, or bind them out as apprentices to such persons at such places, and to learn such trades or employment as in the judgment of the board will be most conducive to their reformation and amendment, and will tend to the future benefit and advantage of said infants.

Provided, however, that whenever a similar separate institution for girls shall be established and opened by the state, girls between the ages aforesaid may be committed to and detained therein in like manner and upon the same conditions as herein provided. The board may discharge any child so committed, or may recall to the school at any time any child placed out, apprenticed, paroled or transferred, and upon such recall may resume the care and control thereof. The discharge of a child by the board shall be a complete release from all penalties and disabilities created by reason of the commitment or sentence.—G. L. 1905, Chap. 233, § 7.

§ 863. **Transfer of inmates.**—Said board may transfer to the state reformatory inmates whose presence is deemed detrimental to the interests of the school, and who are proper subjects for the discipline of the reformatory; and it may transfer to the state public school any inmate whose interests, in its judgment, would be better subserved thereby.—G. L. 1905, Chap. 233, § 8.

§ 864. Sections 2, 4, 5 and 6 of chapter 153, Laws of 1895, and chapter 156, Laws of 1899, and all acts and parts of acts inconsistent with this act are hereby repealed.—G. L. 1905, Chap. 233, § 9.

§ 865. **Agent to investigate homes, etc.**—Said board may appoint an agent, at a salary of not more than one hundred dollars per month and expenses, who, under regulations prescribed by it, shall investigate the homes of inmates previous to their parole, and have supervision over those out on parole and those apprenticed, and perform such other duties as it may require. He shall hold office during the pleasure of the board, devote his entire time to such work, occupy no other position, and receive no other compensation for his services. He may enter any dwelling house or other building whenever he has reasonable cause to believe that any ward of said school is detained or concealed therein, and take possession of such ward when found, and every person who shall willfully resist, obstruct, or interfere with him in the discharge of his duties shall be guilty of a misdemeanor.—R. L. 1905, § 1909.

§ 866. **Interference with inmates.**—Every person who shall abduct, conceal, entice, carry away, or improperly interfere with any inmate of said training school shall be guilty of a misdemeanor.—R. L. 1905, § 1910.

§ 867. **Roads and streets.**—No individual, copartnership, or corporation, public or private, shall lay out, construct, or open any road or street upon or through any grounds of said school without the consent of said board.—R. L. 1905, § 1912.

Note to Chapter XXI.—The law on this subject was originally found in General Laws 1895, Chap. 153. That law has been amended and was condensed into 8 sections of Revised Laws 1905. Then the legislature in 1905, by General Laws 1905, Chap. 233, amended certain sections of Chap. 153, and repealed the rest of the law, leaving the law at present as printed above. In 1907, the legislature, by General Laws 1907, by Chap. 282, established an "State Industrial School for Girls," to which the above law applies with reference to the commitment of girls to the present State Training School.

CHAPTER XXII.—COMPULSORY EDUCATION OF CHILDREN.

§ 868. Children between 8 and 16 years to be sent to school unless certain excuses are found valid.—Every parent, guardian, or other person who resides in any school district, and who has control of any child or children of or between the ages of eight and sixteen years, and in school districts contained in cities of the first class, between the ages of eight and eighteen, shall send such child or children to a public or private school in each year during the entire time the public schools of such district are in session.

Provided, however, that such child or children may be excused from such attendance upon a written application to the school board by the parent, guardian or person having control of such child or children for the whole or any part of such period by the school board or board of education of the school district in which such parent, guardian, or person having control over such child or children resides, upon its being shown to the satisfaction of such board—

1. That such parent, guardian or other person having control is not able by reason of poverty to clothe such child properly; or

2. That such child's bodily or mental condition is such as to prevent his attendance at school or application to study for the period required; or

3. That such child has already completed the studies ordinarily required in the eighth grade; or

4. That there is no public school within reasonable distance of his residence.

A record of such excuses granted shall be spread upon the minutes of the meeting of the board and a copy of the same, duly signed by two members of the board, shall be given to the applicant.—G. L. 1909, Chap. 400, § 1.

§ 869. Duty of clerk and truant officer.—The clerk of each school district wherein a truant officer is not regularly employed shall, during the month of August in each year, make out in triplicate a complete list of all children of school age residing in his school district, together with the name and postoffice address of the parent, guardian or person in charge of such child or children, if known.

He shall certify to this list, send one copy to the county superintendent of schools on or before the first day of September in each year; one copy shall be retained by the clerk with his records, and one copy, together with a record of excuses granted, if there be any, he shall deliver to the principal teacher

of his school during the first month of school in his district and such additional excuses as the board may grant shall be reported to the principal teacher in like manner within five (5) days of the granting thereof.

Such clerk shall receive as full compensation for the services required by him of this act three (3) cents for each pupil enumerated in the list prepared by him up to one hundred (100) names, and for any names in excess of one hundred (100) he shall receive two (2) cents per name.

Such payment shall be made from the general fund of his district in the same manner as other claims are paid.—G. L. 1909, Chap. 400, § 2.

§ 870. **Teacher to report to county superintendent.**—Every teacher, within five days of the receipt of the clerk's list of children of school age and record of excuses granted by the board, shall report to the county superintendent of schools the names of the children who do not attend school and who have not been excused by the board, and he shall make a similar report each succeeding month of school.—G. L. 1909, Chap. 400, § 3.

§ 871. **County superintendent to report to county attorney—Penalty for violation.**—The county superintendent of schools shall report all cases of unexcused non-attendance to the county attorney, who shall notify the parent, guardian or person in charge to send such child or children to school, and upon their neglect or refusal for a period of ten (10) days to comply with the notification and to send such child or children to school, the county superintendent shall, upon request of the county attorney, make and file a criminal complaint against such person or persons so neglecting or refusing, in any court in any said county having jurisdiction of the trial of misdemeanors, and upon the making of such complaint a warrant shall be issued and proceedings and trial be had as by law provided in case of misdemeanors; and all prosecutions under this chapter shall be conducted by the county attorney of the county wherein the offense is committed.

Any person who shall fail or refuse to send to or keep in school any child or children of whom he has legal charge or control, and who is required by law to attend school, when notified so to do as hereinbefore provided, and any person who induces or attempts to induce any child unlawfully to absent himself from school, or who knowingly harbors or employs, while school is in session, any child unlawfully absent from school, shall be guilty of a misdemeanor, and shall be punished by a fine of not to exceed fifty (50) dollars or by imprisonment in the county jail for not more than thirty (30) days.

Any school district clerk, teacher or county superintendent of schools refusing, failing or neglecting to perform any duty imposed upon him by the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished for

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each offense by a fine of not to exceed ten (10) dollars or by imprisonment in the county jail not to exceed ten (10) days.

All such fines, when collected, shall be paid into the county treasury for the benefit of the school district in which such offense is committed.—G. L. 1909, Chap. 400, § 4.

§ 872. Ungraded schools for certain classes—Commitment to state training school.—Truant schools.—Such boards may maintain ungraded schools for the instruction of children of the following classes between eight and eighteen years of age:

1. Habitual truants.
2. Those incorrigible, vicious or immoral in conduct.
3. Those who habitually wander about the streets or other public places during school hours, without lawful employment.

All such children shall be deemed disorderly and the board may compel their attendance at such truant school, or any department of the public schools, as the board may determine.—G. L. 1909, Chap. 400, § 5.

§ 873. Commitment to state training school.—Whenever the board determines that the foregoing provisions have been found inadequate to secure the attendance at school of any such disorderly child, or that he is beyond proper control in the truant or other school to which he has been assigned, it shall direct the truant officer to make complaint to a court or magistrate having jurisdiction over misdemeanors in such district or city.

Such court or magistrate shall thereupon issue a warrant for the arrest of such child, and proceed to a hearing on such complaint, and if, upon such hearing, the court or magistrate shall decide that such child is disorderly and beyond the proper control of the schools of the district, and under seventeen years of age, he shall sentence him to the state training school; but in case of a first conviction, the court, in its discretion, may suspend the sentence.—G. L. 1909, Chap. 400, § 5.

CHAPTER XXIII.—LABOR AND SANITATION— MANUFACTURING ESTABLISHMENTS.

§ 874. **Fifty-eight hours to constitute a week for female labor—Duty of employer.**—No female shall be employed in laboring in a mercantile establishment more than fifty-eight hours in a week.

Every employer shall post in a conspicuous place in every room in which such persons are employed a printed notice stating the number of hours' work which are required of them on each day of the week, the hours of commencing and stopping such work, and the hour when the time or times allowed for dinner or other meals begin and end.

The printed form of such notice shall be furnished by the commissioner of labor.

The employment of any such person for a longer time in any day than so stated shall be deemed a violation of the provisions of this section.—G. L. 1909, Chap. 499, § 1.

§ 875. **Ten hours a day in manufacturing or mechanical establishment—Duty of employer—Violation.**—No female shall be employed in laboring in a manufacturing or mechanical establishment more than ten hours in any one day, except as herein-after provided in this section, unless a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week; and in no case shall the hours of labor exceed fifty-eight in a week.

Every employer shall post in a conspicuous place in every room in which such persons are employed a printed notice stating the number of hours' work, and the hours when the time allowed for meals begins and ends.

The printed forms of such notices shall be provided by the commissioner of labor.

The employment of such person at any time other than as stated in said printed notice shall be deemed a violation of the provisions of this section unless it appears that such employment was to make up time lost on previous day of the same week in consequence of the stopping of machinery upon which he or she was employed or dependent for employment; but no stopping of machinery for less than thirty consecutive minutes shall justify such overtime employment, nor shall overtime employment be authorized until a written report of the day and hour its occurrence and its duration is sent to the commissioner of labor.—G. L. 1909, Chap. 499, § 2.

§ 876. **Sixty minutes to be allowed for noon day meal—20 minutes for lunch after 6 o'clock.**—In each factory, workshop, store or mill at least sixty minutes shall be allowed for the noon

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day meal unless the commissioner of labor shall permit a shorter time.

Such permit must be in writing and conspicuously posted in the main entrance of the factory and may be revoked at any time.

Where employees are required or permitted to work more than one hour after six o'clock in the evening they shall be allowed at least twenty minutes to obtain lunch before beginning to work overtime.—G. L. 1909, Chap. 499, § 3.

§ 877. **Cubic feet of air space.**—No more employees shall be required or permitted to work in a room in a factory than will allow to each of such employees, not less than two hundred and fifty cubic feet of air space; and unless by a written permit of the commissioner of labor, not less than four hundred cubic feet for each employee, so employed.—G. L. 1909, Chap. 499, § 4.

§ 878. **Ventilation to be provided within twenty days.**—The owner, agent or lessee of a factory shall provide in each workroom thereof, proper and sufficient means of ventilation, and shall maintain proper and sufficient ventilation; if excessive heat be created or if steam, gases, vapors, dust or other impurities that may be injurious to health be generated in the course of the manufacturing process carried on therein the room must be ventilated in such manner as to render them harmless, so far as is practicable; in case of failure the commissioner of labor shall order such ventilation to be provided.

Such owner, agent or lessee shall provide such ventilation within twenty days after the service upon him of such order, and in case of failure, shall forfeit to the people of the state, ten dollars for each day after the expiration of such twenty days, to be recovered by the commissioner of labor.—G. L. 1909, Chap. 499, § 5.

§ 879. **Factory and workshop to be limewashed.—Violation a misdemeanor.**—Every factory and workshop in this state where women and children are employed and where dusty work is carried on shall be limewashed or painted at least once in every twelve months.

Every floor of any room in said factory shall be thoroughly cleaned with soap and water at least once in six months and every dressing room and water closet in said factory shall be thoroughly cleaned with soap and water once in every week.

Any employer, superintendent, owner or other agent of any mercantile establishment who violates any of the provisions of this chapter shall be guilty of a misdemeanor.—G. L. 1909, Chap. 499, § 6.

CHAPTER XXIV.—BASTARDS.

§ 880. **Complaint—Warrant.**—On complaint being made to a justice of the peace by any woman who is delivered of a bastard child, or pregnant with a child which, if born alive, might be a bastard, accusing any person of being the father of such child, the justice shall take the complaint in writing, under her oath, and thereupon shall issue his warrant, directed to the sheriff or any constable of his county, commanding him forthwith to bring such accused person before him to answer such complaint; which warrant may be executed anywhere within the state.—R. L. 1905, § 1567.

§ 881. **Action, how entered—Proceedings.**—The justice shall enter an action in his docket, in which the state shall be plaintiff and the accused defendant, and shall make such other entries as are required in criminal actions.—On the return of the warrant with the accused, the justice shall examine under oath the complainant, and such other witnesses as may be produced by the parties, respecting the complaint, and shall reduce such examination to writing.—R. L. 1905, § 1568.

§ 882. **Defendant discharged, when.**—If the defendant pays, or secures to be paid, to the complainant such sum of money, or other property, as she, with the written approval of the county attorney and the chairman of the county board, or by the county board, may agree to receive in full satisfaction, a memorandum of which agreement and approval the justice shall enter in his docket, and shall also pay the costs of prosecution and the expenses incurred by such county for the lying-in and support of and attendance upon the mother during her sickness, and bond be given to the county, by either the defendant or the complainant, approved by the county attorney and the chairman of the county board, or the county board, conditioned to indemnify such county against all charges for the maintenance of the child born, or that may be born, the justice shall discharge him. It shall be the duty of the county attorney to prosecute all proceedings under this act in any court of this state.—R. L. 1905, § 1569, as amended, G. L. 1909, Chap. 275.

§ 883. **Recognizance by defendant.**—If the defendant does not comply with the provisions of the last section, and there is probable cause to believe him guilty as charged in the complaint, the justice shall require him to enter into a recognizance, with sureties approved by the justice, in a sum not less than \$100 nor more than \$500, to appear before the district court of the proper county at the next term thereof, and answer said complaint and abide the order of such court thereon. If he fails to give such recognizance, the justice shall commit him to the county jail,

there to be held to answer such complaint at the next term of such court. Thereupon the justice shall certify the examination, and return the same and all process and papers in the case to the clerk of such court.—R. L. 1905, § 1570.

§ 884. **Complaint by county board.**—If any woman is delivered of a bastard child which is, or is likely to become, a public charge, or is pregnant with a child likely to be born a bastard and become a public charge, the county board of the county where she resides, or any member thereof, may apply to a justice of the peace of the county to inquire into the facts and circumstances of the case.—R. L. 1905, § 1577.

§ 885. **Procedure—Warrant.**—Such justice may summon the woman to appear before him, and may examine her on oath respecting the father of such child, the time when and place where it was begotten, and any other facts he deems necessary for the discovery of the truth, and thereupon shall issue his warrant to apprehend the putative father. Thereafter the proceedings shall be the same as if the complaint had been made by such woman under the provisions of this chapter, and with like effect, and in all cases the board and the accused may require the attendance of such woman as a witness.—R. L. 1905, § 1578.

§ 886. **Compromise by board.**—The county board, either before or after judgment, may make such compromise and settlement with the putative father of any bastard child, relative to its support, as they deem equitable and just, and thereupon may discharge him from all liability for the support of such child.—R. L. 1905, § 1579.

CHAPTER XXV.—POLL TAX DELINQUENT.

TITLE I.—PROCEDURE IN TOWNS.

§ 887. **Persons and property assessable.**—Every male inhabitant in each town, between the ages of twenty-one and fifty years, except paupers, insane persons, and others exempted by law, shall be assessed not less than one nor more than four days' road labor in each year. All real and personal property in the town liable to taxation shall be assessed for road purposes to such amount, payable in labor at the option of the taxpayer, as the board deems necessary, not exceeding \$1 on each \$100 assessed value.—R. L. 1905, § 1226.

§ 888. **Persons and property liable to road tax—Rate.**—Every male inhabitant, being above twenty-one years and under the age of fifty, excepting paupers, idiots, lunatics and such others as are exempt by law, shall be assessed not less than one nor more than four days in each year. Supervisors shall assess a road tax on all real estate and personal property liable to taxation in the town, to any amount they may deem necessary, not exceeding \$1 on each \$100 of value, as valued on the assessment roll of the preceding year.—G. L. 1905, Chap. 324.

§ 889. **General duties.**—Each overseer shall warn all persons in his district liable to work on roads when and where their services will be required, and what tools or teams they are to bring; always having regard, in his assignment of labor, to the proximity of residence of the person to the place of labor. He shall collect all fines and commutation money, pay out the same under the direction of the town board, and pay over to the chairman of said board all unexpended moneys as hereinafter provided. Within sixteen days after his appointment he shall make and file in the office of the town clerk, a list of all the inhabitants of his district liable to work on roads. He may require a team, cart, wagon, plow or scraper, with a pair of horses or oxen, and a man to manage them, from any one liable for labor, having the same.—R. L. 1905, § 1225.

§ 890. **Notice to work—Commutation.**—The overseer shall give at least three days' notice to all persons assessed for road labor, of the time and place when and where they shall appear for work, and with what teams or tools. Such persons may appear personally or by able-bodied substitutes, or they may elect to commute for the same or some part thereof. Commutation for labor shall be at the rate of \$1.50 per day, to be paid to the overseer within two days after notice to appear for work. Each able-bodied man shall be allowed for labor \$1.50 per day, and the like amount for the use of a team and wagon, plow, or scraper.—R. L. 1905, § 1228.

§ 891. **Neglect by taxpayer—Penalties.**—Every person assessed to perform labor on roads who neglects to appear and perform such labor when duly notified, and does not pay his commutation therefor, shall be guilty of a misdemeanor, and upon conviction shall be fined \$2 for every day's refusal or neglect. On refusal to furnish a team, man, wagon, or implements, when required so to do, he shall be fined as follows: For wholly omitting to comply with such request, \$4 for each day; for omitting to furnish a cart, wagon, or plow, \$1 for each day; for omitting to furnish a pair of horses or oxen, \$1.50 for each day; for omitting to furnish a man to manage the team, \$1.50 for each day.—R. L. 1905, § 1236.

§ 892. **Complaint against delinquent.**—When no satisfactory excuse is rendered to the overseer for such neglect or refusal, he shall, within nine days after assessment and notice as hereinbefore provided, make complaint to a justice of the peace of that or an adjoining town, who shall forthwith issue a warrant, directed to the sheriff or any constable of the county, requiring him to arrest such delinquent and bring him before such justice to be dealt with according to law.—R. L. 1905, § 1237.

§ 893. **Justice's duty on complaint made.**—The personal labor of every person notified, or its equivalent in money, is required. He may commute by paying the money, at the rate of \$1.50 per day for himself, and the same for the use of a team and wagon or plow, within two days after notification. Land road or personal property tax may be paid at the same rates. If his poll tax be not paid within the two days, then the overseer of highways must at once, and within nine days after notification, make complaint to a justice of the peace of the same, or an adjoining town, warrant must issue, and fine and costs be levied of his goods and chattels. (See forms given in Part Third.)

The justice should enter a suit in his docket entitled, "The State of Minnesota against A. B." (the defendant), and make entries of all the proceedings in the case, from the making of the complaint, to the final judgment, as minutely as in any other criminal trial had before him. The docket must show a complaint on oath, a warrant of arrest, an arraignment of defendant, a plea of guilty or not guilty, a conviction, and a judgment of fine and costs when convicted. Then, if execution is issued, that fact must be entered, and he must also indorse on the back of the warrant of execution, the amount of fine and costs separately, and the officer must indorse the date of its reception by him, and all proceedings had thereunder, as in case of an ordinary execution. When the execution is satisfied, it must be returned to the justice, with the fine and costs, who must pay the fine "to the overseer who entered complaint, to be by him expended in improving the roads and bridges in his district."

§ 894. **Fines—Excuse.**—All fines collected under the provisions of the preceding two sections shall be paid to the overseer,

to be by him expended on the improvement of roads and bridges. The acceptance of any excuse for refusal or neglect shall not exempt the person excused from performing the required work, or commuting therefor.—R. L. 1905, § 1238.

TITLE II.—PROCEDURE IN VILLAGES.

§ 895. **Male inhabitant of villages subject to poll tax assessment.**—Every male inhabitant in any village in this state organized and operating under general laws, between the ages of twenty-one and fifty years, except paupers, insane persons and others exempted by law, shall be assessed not less than one nor more than four days' labor in each year.—G. L. 1909, Chap. 189, § 1.

§ 896. **Village council to fix number of days.**—Within twenty (20) days after the annual village election, the village council or governing board shall meet and determine by resolution the number of days of road labor to be assessed against the persons liable therefor in said village for the ensuing year, and shall make a list of all persons in said village liable for road labor, and shall place opposite the name of each person thereon the number of days of road labor assessed against him, and such list shall be signed by the president and clerk or recorder of such village, and filed with the clerk or recorder thereof, who shall deliver a certified copy thereof to the street commissioner of such village. Such street commissioner may add the names of persons omitted from such list and all new residents that are liable for road labor to the certified copy in his hands, and thereupon such persons shall be liable for the number of days' road labor fixed by such resolution, the same as if their names had been placed on such list before the same was made and filed.—G. L. 1909, Chap. 189, § 2.

§ 897. **Street commissioner to give notice—Compensation.**—The street commissioner shall give at least three days' notice to all the persons assessed for road labor, of the time and place when and where they shall appear for work and with what tools. Such persons may appear personally or by able-bodied substitutes, or they may elect to commute for the same or some part thereof. Commutation for labor shall be at the rate of \$1.50 per day, to be paid to the street commissioner within two days after notice to appear for work. All moneys paid to the street commissioner for labor commuted shall be at once paid by such street commissioner into the village treasury and shall be credited to the road and bridge fund of said village.—G. L. 1909, Chap. 189, § 3.

§ 898. **Report of street commissioner.**—On or before December 1st in each year, the street commissioner shall render to the village council or governing board of such village, a report in writing containing:

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1. The names of all persons assessed to perform road labor with the number of days each has worked.

2. The names of all persons who have commuted and the amount received from such commutation.

3. The names of all persons who have been fined and the amount of each fine, and whether the same has been paid.

4. An itemized account of all moneys paid out by him and the balance remaining in his hands.

He shall then pay over the balance to the village treasurer to be credited to the road and bridge fund of said village.—G. L. 1909, Chap. 189, § 4.

§ 899. **Misdemeanor for violation.**—Every person assessed to perform road labor in any such village on roads and streets thereof who neglects to appear and perform such labor when duly notified and does not pay his commutation therefor, shall be guilty of a misdemeanor and upon conviction shall be fined not less than five nor more than twenty-five dollars.—G. L. 1909, Chap. 189, § 5.

§ 900. **Complaint.**—When no satisfactory excuse is rendered to the street commissioner for such neglect or refusal, he shall within nine days after notice has been served, as herein provided, make a complaint to a justice of the peace of such village, and if there be none in such village, then to some justice of the peace of the county in which the village or some part thereof is situated, who shall forthwith issue a warrant directed to the sheriff or any constable of the county, requiring him to arrest such citizen and bring him before such justice to be dealt with according to law.—G. L. 1909, Chap. 189, § 6.

§ 901. **Disposal of fines.**—All fines collected under the provisions of this act shall be paid by the justice of the peace into the village treasury of the village in which the offense was committed and credited by such village treasurer to the road and bridge fund of such village.—G. L. 1909, Chap. 189, § 7.

§ 902. **Election may be held to decide expenditure of road taxes in villages.**—All road taxes, except poll taxes, may be required to be paid in cash in any village in this state whenever a majority of the voters of such village voting by ballot upon the question shall so determine. Such question shall not be voted upon unless a petition signed by at least ten voting taxpayers of such village, praying for the payment in cash of all road taxes, is filed with the clerk or recorder of such village ten days before the annual election in such village, in which case the clerk or recorder shall specify in the notice of such annual election that such question will be voted upon. If such question is decided in the affirmative, all taxes thereafter assessed for the maintenance and repair of roads and bridges in such village shall be paid in money and disbursed by the village council or governing board of such village as other village taxes. The village council or governing board of such village may assess all the property of

such village not to exceed six mills on the dollar on the last assessed valuation thereof, and if they so assess, they shall certify the same to the county auditor for extension and collection, the same as other village taxes, and before such taxes are collected, such village council or governing board of such village may pledge the credit of the village by issuing village orders not to exceed the taxes so assessed, to the expense of road and bridge work; provided, however, that for the year 1909, upon a petition as above provided for, being filed with the village clerk or recorder on or before the last Tuesday in March of said year, the village council may cause a special election to be held for the purpose of voting upon said question, by giving the notice required in the case of special elections in villages.—G. L. 1909, Chap. 435.

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PART SECOND—PENAL CODE.

CRIMES, CRIMINAL PROCEDURE, PRISONS AND IMPRISONMENT.

TITLE I—GENERAL PROVISIONS.

§ 903. **Crimes defined and classified.**—A crime is an act or omission forbidden by law, and punishable upon conviction by death, imprisonment, fine, or other penal discipline. Every crime which may be punished by death, or by imprisonment in the State Prison or State Reformatory, is a felony. Every crime punishable by fine not exceeding \$100, or by imprisonment in a jail for not more than 90 days, is a misdemeanor. Every other crime is a gross misdemeanor.—R. L. 1905, § 4747.

§ 904. **Meaning of words and terms.**—In the construction of part IV, save when otherwise plainly declared or clearly apparent from the context, the following rules shall be observed:

1. Each of the words "neglect," "negligence," "negligent" and "negligently" shall import a want of such attention to the nature or probable consequences of the act or omission as an ordinarily prudent man usually exercises in his own business.

2. Each of the words "corrupt" and "corruptly" shall import a wrongful desire to acquire or cause some pecuniary or other advantage to himself or another, by the person to whom applicable.

3. "Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person, or to maltreat or injure an animal.

4. The word "knowingly" imports a knowledge that the facts exist which constitute the act or omission a crime, and does not require knowledge of its unlawfulness.

5. Whenever an intent to defraud constitutes a part of a crime, it is not necessary to aver or prove an intent to defraud any particular person.

6. The word "vessel" includes ships, steamers, and every boat or structure adapted to navigation, either upon lakes, rivers, or artificial waterways.

7. The word "signature" includes any memorandum, mark, or sign written with intent to authenticate any instrument or writing, or the subscription of any person thereto.

8. The word "writing" shall include printing.

9. The word "property" includes both real and personal property, things in action, money, bank bills, and every other thing of value.

10. The word "oath" includes an affirmation; the word "bond," an undertaking; words in the present include the future tense; and in the masculine include the feminine and neuter genders; and in the singular include the plural; and in the plural, the singular.

11. The word "person" includes a corporation or joint-stock association. Whenever it is used to designate a party whose property may be the subject of any offense, it also includes the state, or any other state, government, or country which may lawfully own property within the state.

12. The term "real property" includes every estate, interest, and right in lands, tenements, or hereditaments.

13. The term "personal property" includes every description of money, goods, chattels, effects, evidences of rights in action, and all

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written instruments by which any pecuniary obligation, right, or title to property, real or personal, is created, acknowledged, transferred, increased, defeated, discharged or diminished, and every right and interest therein.—R. L. 1905, § 4748.

§ 905. **Rules of construction.**—The rule that a penal statute is to be strictly construed shall not apply to any provision of part IV of the Revised Laws, but every such provision shall be construed according to the fair import of its terms, to promote justice and effect the purpose of the law.—R. L. 1905, § 4749.

§ 906. **Persons punishable.**—The following persons are liable to punishment:

1. A person who commits in the state any crime, in whole or in part.
2. A person who commits out of the state any offense which, if committed within it, would be larceny under the law, and is afterward found in the state with any of the stolen property.

3. A person who, being out of the state, causes, procures, aids, or abets another to commit a crime in the state.

4. A person who, being out of the state, abducts or kidnaps, by force or fraud, any person, contrary to the laws of the place where the act is committed, and brings, sends, or conveys such person into this state.

5. A person who, being out of the state, and with intent to cause within it a result contrary to its laws, does an act which, in its natural and usual course, results in an act or effect contrary to such laws.—R. L. 1905, § 4750.

§ 907. **Defense of self or another, when justifiable.**—An act otherwise criminal is justifiable when done to protect the doer, or another whom he is bound to protect, from imminent personal injury, whenever such act appears to be only what is reasonably necessary to prevent the injury.—R. L. 1905, § 4751.

§ 908. **Defense of duress by married woman.**—It is no defense for a married woman charged with crime that the alleged act was committed by her in the presence of her husband.—R. L. 1905, § 4752.

§ 909. **Duress—How constituted.**—Whenever any crime, except murder, is committed or participated in by two or more persons, any one of whom participates only under compulsion by another engaged therein, who by threats creates a reasonable apprehension in the mind of such participator that in case of refusal he is liable to instant death, such threats and apprehension constitute duress which will excuse such participator from criminal liability.—R. L. 1905, § 4753.

§ 910. **Presumption of responsibility.**—Save as hereinafter specified, every person is presumed to be responsible for his acts, and the burden of rebutting such presumption is upon him. Children under the age of seven years, idiots, imbeciles, lunatics, or insane persons are incapable of committing crime. Children of seven and under twelve years of age are presumed incapable of committing crime, but this presumption may be removed by proof that they have sufficient capacity to understand the act or neglect, and to know that it was wrong. Whenever in legal proceedings it becomes necessary to determine the age of a child, he may be produced for inspection, to enable the court or jury to determine the age thereby; and the court may also direct his examination by one or more physicians, whose opinion shall be competent evidence upon the question of his age.—R. L. 1905, § 4754.

§ 911. **Intoxication or criminal propensity no defense.**—No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his condition, but whenever the actual existence of any particular purpose, motive, or intent is a necessary element to constitute a particular species or degree of crime, the fact of his intoxication may be taken into consideration in determining such purpose, motive or intent. A morbid propensity to commit prohibited acts existing in the mind of a person who is not shown to have been incapable of knowing that such acts were wrong shall constitute no defense.—R. L. 1905, § 4755.

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§ 912. **Criminal responsibility of insane persons.**—No person shall be tried, sentenced, or punished for any crime while in a state of idiocy, imbecility, lunacy, or insanity, so as to be incapable of understanding the proceedings or making a defense; but he shall not be excused from criminal liability except upon proof that at the time of committing the alleged criminal act, he was laboring under such a defect of reason, from one of said causes, as not to know the nature of his act, or that it was wrong.—R. L. 1905, § 4756.

§ 913. **Conviction of lesser crime, when.**—Upon the trial of an indictment, the defendant may be convicted of the crime charged therein, or of a lesser degree of the same crime, or of an attempt to commit the crime so charged, or of an attempt to commit a lesser degree of the same crime. In an indictment for an assault with intent to commit a felony, the jury, in case they do not find the intent charged, may convict of assault, and the court may sentence the defendant to imprisonment in the county jail for not more than one year, or to pay a fine not exceeding \$500.—R. L. 1905, § 4757.

§ 914. **Principal defined.**—Every person concerned in the commission of a crime, whether he directly commits the act constituting the offense, or aids and abets in its commission, and whether present or absent, and every person who directly or indirectly counsels, encourages, hires, commands, induces, or otherwise procures another to commit a crime, is a principal, and shall be indicted and punished as such.—R. L. 1905, § 4758.

§ 915. **Accessory defined.**—Every person not standing in the relation of husband or wife, parent or child to the offender, who, after the commission of a felony, shall harbor, conceal, or aid such offender, with intent that he may avoid or escape from arrest, trial, conviction, or punishment, having knowledge or reasonable ground to believe that such offender has committed a felony or is liable to arrest is an accessory to the felony.—R. L. 1905, § 4759.

§ 916. **Trial and punishment of accessories.**—Every accessory to a felony may be indicted, tried and convicted either in the county where he became an accessory, or where the principal felony was committed, and whether the principal offender has or has not been convicted, or is or is not amenable to justice, or has been pardoned or otherwise discharged after conviction; and, except where a different punishment is specially prescribed by law, such accessory shall be punished by imprisonment in the State Prison or county jail for not more than five years, or by a fine of not more than \$500, or by both.—R. L. 1905, § 4760.

§ 917. **Certain duties of courts and juries.**—Whenever a crime is distinguished into different degrees, the jury, on conviction, shall find the degree of which the accused is guilty. Whenever a crime is declared to be punishable in a specified way, the court shall pass sentence imposing the prescribed punishment; and, whenever the punishment is left undetermined between certain limits, the court shall determine the same within the prescribed limits.—R. L. 1905, § 4761.

§ 918. **Punishment of felony, when not fixed by statute.**—Whoever is convicted of a felony for which no punishment is specially prescribed by any statutory provision in force at the time of conviction and sentence shall be punished by imprisonment in the State Prison or a county jail for not more than seven years, or by a fine of not more than \$1,000, or by both.—R. L. 1905, § 4762.

§ 919. **Punishment of misdemeanors when not fixed by statute.**—Whoever is convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence shall be punished by imprisonment in the county jail for not more than three months, or by a fine of not more than \$100.—R. L. 1905, § 4763.

§ 920. **Punishment of gross misdemeanor when not fixed by statute.**—Whoever shall be convicted of a gross misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and

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sentence shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not more than \$1,000.—R. L. 1905, § 4764.

§ 921. **Crimes punishable under different provisions.**—Any act or omission declared criminal and punishable in different ways by different provisions of law shall be punished under only one of such provisions, and a conviction or acquittal under any one shall bar a prosecution for the same act or omission under any other provision.—R. L. 1905, § 4765.

§ 922. **Acts punishable under foreign law.**—An act or omission declared punishable by criminal law is not less so because it is also punishable under the laws of another state, government, or country, unless the contrary is expressly declared in such law.—R. L. 1905, § 4766.

§ 923. **Foreign conviction or acquittal.**—Whenever, upon the trial of any person indicted for a crime, it appears that the offense was committed in another state or country, under such circumstances that the courts of this state had jurisdiction thereof, and that the defendant has already been acquitted or convicted on the merits, upon a criminal prosecution under the laws of such state or country, founded upon the act or omission in respect of which he is upon trial, such former acquittal or conviction is a sufficient defense.—R. L. 1905, § 4767.

§ 924. **Punishment for contempt.**—A criminal act which at the same time constitutes contempt of court, and has been punished as such, may also be punished as a crime, but in such case the punishment for contempt may be considered in mitigation.—R. L. 1905, § 4768.

§ 925. **Sending letter, when complete.**—Whenever the statute makes the sending of a letter criminal, the offense shall be deemed complete from the time it is deposited in any post office or other place, or delivered to any person, with intent that it shall be forwarded; and the sender may be indicted and tried in the county wherein it was so deposited or delivered, or in which it was received by the person to whom it was addressed.—R. L. 1905, § 4769.

§ 926. **Omission—When punishable.**—No person shall be punished for omission to perform an act where it has been performed by another acting in his behalf, and competent by law to perform it.—R. L. 1905, § 4770.

§ 927. **Attempts—How punished.**—An act done with intent to commit a crime, and tending, but failing, to accomplish it, is an attempt to commit that crime; and every person who attempts to commit a crime, unless otherwise prescribed by statute, shall be punished as follows:

1. If the crime attempted is punishable by death or life imprisonment, the person convicted of the attempt shall be punished by imprisonment in the State Prison for not more than ten years.

2. In every other case he shall be punished by imprisonment in the State Prison for not more than half of the longest term, or by fine of not more than half the largest sum, prescribed upon conviction for the commission of the offense attempted, or by both such fine and imprisonment; but this shall not protect a person who, in an unsuccessful attempt to commit one crime, does commit another and different one, from the prescribed punishment for the crime actually committed.—R. L. 1905, § 4771.

§ 928. **Second offenses, how punished.**—Every person who, after having been convicted in this state of a felony or attempt to commit a felony, or, under the laws of any other state or country, of a crime which, if committed in this state, would be a felony, commits any crime in this state, upon conviction thereof shall be punished as follows:

1. If the subsequent crime is such that the offender, upon a first conviction, might be punished by imprisonment for life, he shall be sentenced to imprisonment in the State Prison for life.

2. If the subsequent crime be such that upon a first conviction the offender might be punished by imprisonment for any term less than life, then he shall be sentenced to imprisonment for a term not less than the longest term, nor more than twice the longest term prescribed upon a first conviction.—R. L. 1905, § 4772.

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§ 929. **Imprisonment on two or more convictions.**—Whenever a person shall be convicted of two or more offenses before sentence has been pronounced for either, the imprisonment to which he is sentenced upon the second or other subsequent conviction shall commence at the termination of the first or other prior term or terms of imprisonment to which he is sentenced; and whenever a person while under sentence for felony commits another felony, and is sentenced to another term of imprisonment, such latter term shall not begin until the expiration of all prior terms.—R. L. 1905, § 4773.

§ 930. **Life sentence, when—Effect.**—Whenever the statute declares a crime punishable by imprisonment for not less than a specified number of years, and fixes no maximum limit, the court may sentence the offender to imprisonment during his natural life, or for not less than the minimum number of years prescribed. A person sentenced to imprisonment for life is thereafter civilly dead.—R. L. 1905, § 4774.

§ 931. **Sentence—How limited—Jail—Workhouse.**—Whenever a convict is sentenced to the State Prison for more than one year, unless the exact period be fixed by law, the court shall so limit the term that it will expire between the months of March and November. Whenever a sentence may be imprisonment in a county jail, the offender may be sentenced to and imprisoned in a workhouse, if there be one in the county where he is tried or where the offense was committed. The place of imprisonment shall be specified in the sentence. But convicts may be removed from one place of confinement to another when so provided by statute.—R. L. 1905, § 4775.

§ 932. **Limit of fine when not specified.**—Whenever a statute makes a crime, other than a misdemeanor, punishable by fine, and does not specify its amount, a fine of not more than \$500 may be imposed; and, where the defendant shall be sentenced to pay a fine, the court may, as part of the judgment, order the defendant to be committed to the county jail until such fine is paid, not exceeding a reasonable time, to be graduated according to the amount of the fine.—R. L. 1905, § 4776.

§ 933. **Convicts protected—Forfeitures abolished.**—Every convict sentenced to imprisonment shall be under the protection of the law, and any unauthorized injury to his person is punishable in the same manner as if he were not convicted or sentenced. A conviction for any crime does not work a forfeiture of any property, real or personal, or of any right or interest therein. All forfeitures in the nature of deodands, or in a case of suicide, or where a person flees from justice, are abolished.—R. L. 1905, § 4777.

§ 934. **Incriminating testimony not to be used.**—In every case in the Revised Laws where it is provided that a witness shall not be excused from giving testimony tending to criminate himself, no person shall be excused from testifying or producing any papers or documents on the ground that his testimony may tend to criminate him or subject him to a penalty or forfeiture; but he shall not be prosecuted or subjected to a penalty or forfeiture for or on account of any action, matter, or thing concerning which he shall so testify, except for perjury committed in such testimony.—R. L. 1905, § 4778.

§ 935. **Sentence of minor under sixteen.**—Whenever a person under the age of sixteen years shall be convicted of crime, he shall be sentenced to pay a fine or to be committed to the State Training School for Boys and Girls, and subjected to the discipline and control thereof until his majority, or for such shorter time as the court may determine.—R. L. 1905, § 4779.

§ 936. **Convict as witness.**—Every person convicted of crime shall be a competent witness in any civil or criminal proceeding, but his conviction may be proved for the purpose of affecting the weight of his testimony, either by the record or by his cross-examination, upon which he shall answer any proper question relevant to that inquiry; and the party cross-examining shall not be concluded by his answer thereto.—R. L. 1905, § 4780.

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§ 937. **Intent to defraud.**—Whenever, by any of the provisions of Part IV, and intent to defraud is required in order to constitute an offense, it is sufficient if an intent appears to defraud any person, association, or body politic or corporate whatsoever.—R. L. 1905, § 4781.

§ 938. **Crimes on railway trains, boats, etc.**—The route traversed by any railway car, coach, train, or other public conveyance, and the water traversed by any boat, shall be criminal districts; and jurisdiction of all public offenses which shall be committed on any such railway car, coach, train, boat, or other public conveyance, or at any station or depot upon such route, shall be in any county through which said car, coach, train, boat, or other public conveyance may pass during the trip or voyage, or in which the trip or voyage may begin or terminate.—R. L. 1905, § 4782.

TITLE II.—RIGHTS OF ACCUSED.

§ 939. **To know ground of arrest.**—Every person arrested by virtue of process, or taken into custody by an officer, has a right to know from such officer the true ground of his arrest; and every such officer who shall refuse to answer relative thereto, or shall answer untruly, or neglect on request to exhibit to him, or to any person acting in his behalf, the precept by virtue of which such arrest is made, shall be punished by a fine not exceeding \$1,000, or by imprisonment in the county jail not exceeding one year.—R. L. 1905, § 4783.

§ 940. **Presumption of innocence.**—Conviction of lowest degree, when.—Every defendant in a criminal action is presumed innocent until the contrary is proved, and in case of a reasonable doubt is entitled to acquittal; and when an offense has been proved against him, and there exists a reasonable doubt as to which of two or more degrees he is guilty, he shall be convicted only of the lowest.—R. L. 1905, § 4784.

§ 941. **Conviction—When had.**—No person indicted for any offense shall be convicted thereof, unless by admitting the truth of the charge in his demurrer or plea, by confession in open court, or by verdict of a jury, accepted and recorded by the court.—R. L. 1905, § 4785.

§ 942. **Dismissal, when.**—Whenever any person has been held to answer for a public offense, if an indictment is not found against him at the next term of the court to which he is held, said court shall order the prosecution to be dismissed, unless good cause to the contrary be shown. If indicted, and trial is not postponed upon his own application, unless tried at the next term of the court in which it is triable, the indictment shall be dismissed, unless good cause to the contrary be shown.—R. L. 1905, § 4786.

§ 943. **Continuance—Effect—Bail.**—Whenever the defendant is not indicted or tried as herein provided, and good reasons therefor are shown, the court may order the action continued from term to term, and in the meantime commit the defendant, or, in case the offense is bailable, admit him to bail, on his furnishing satisfactory sureties. Whenever the action is dismissed, the defendant shall be discharged from custody, or, if admitted to bail, his bail shall be exonerated, and, if money has been deposited for bail, that shall be refunded.—R. L. 1905, § 4787.

§ 944. **Defendant entitled to blank subpoenas.**—The clerk of the court in which any indictment is to be tried shall at all times, upon application of defendant, and without charge, issue as many blank subpoenas, under the seal of the court, and subscribed by him as clerk, for witnesses in the state, as are required by such defendant.—R. L. 1905, § 4788.

§ 945. **Court may appoint counsel for defendant, when.**—Compensation.—Whenever a defendant shall be arraigned upon an indictment for any criminal offense punishable by death or imprisonment in the State Prison, and shall request the court to appoint counsel to assist in his defense, and satisfy it by his own oath or other required proof that he is unable, by reason of poverty, to procure counsel, such court shall appoint counsel, not exceeding two, for such defendant, to be paid, upon its order,

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by the county in which the indictment was found. Compensation, not exceeding \$10 per day for each counsel, for the number of days he is actually employed in court upon the trial, shall be fixed by the court in each case.—R. L. 1905, § 4789.

§ 946. **Depositions for defense—How taken and used.**—Upon cause shown to the court in which any criminal action is pending, a judge thereof may by order allow depositions of witnesses on behalf of the prisoner to be taken in the same manner and in like cases where they may be taken in civil actions; and the depositions so taken may be used upon the trial of the defendant, in his behalf, as depositions are now allowed and used in civil actions; but the expense attending the taking and return thereof shall be paid by the defendant, except when otherwise directed by the court, by order duly entered upon its minutes.—R. L. 1905, § 4790.

§ 947. **Proceedings on acquittal on part of the charge.**—Whenever any person indicted for felony is acquitted by verdict of part of the offense charged and convicted on the residue, such verdict may be received and recorded by the court, and thereupon he shall be adjudged guilty of the offense, if any, which appears to be substantially charged by the residue of the indictment, and sentenced accordingly.—R. L. 1905, § 4791.

§ 948. **Acquittal—When a bar.**—Whenever a defendant shall be acquitted or convicted upon an indictment for a crime consisting of different degrees, he cannot thereafter be indicted or tried for the same crime in any other degree, nor for an attempt to commit the crime so charged, or any degree thereof.—R. L. 1905, § 4792.

TITLE III. CRIMES AGAINST THE SOVEREIGNTY OF THE STATE.

§ 949. **Treason—How punished.**—Every person who shall commit treason against the state shall be punished by imprisonment in the State Prison for life.—R. L. 1905, § 4793.

§ 950. **Misprision of treason—How punished.**—Every person having knowledge of the commission of treason, who conceals the same, and does not, as soon as may be, disclose such treason to the Governor or a judge of the supreme or district court, shall be guilty of misprision of treason, and punished by a fine not exceeding \$1,000, or by imprisonment in the State Prison not exceeding five years, or in common jail not exceeding two years.—R. L. 1905, § 4794.

§ 951. **Levying war defined—Exception.**—To constitute levying war against the state, an actual act of war must be committed. To conspire to levy war is not enough. Where persons rise in insurrection, with intent to prevent, in general, by force and intimidation, the execution of a statute of the state, or to force its repeal, they shall be guilty of levying war. But an endeavor, although by numbers and force of arms, to resist the execution of a law in a single instance and for a private purpose, is not levying war.—R. L. 1905, § 4795.

§ 952. **Wilful neglect of official duty.**—Whenever any duty is enjoined by law upon any public officer or person holding public trust or employment, every wilful neglect to perform such duty, and every malfeasance in office, for the punishment of which no special provision has been made, shall be a gross misdemeanor, and punishment by fine and imprisonment.—R. L. 1905, § 4796.

§ 953. **Acting in public office without having qualified.**—Every person who performs any of the functions of a public office without having executed and duly filed the required security shall be guilty of a gross misdemeanor, and, in addition to the punishment prescribed therefor, he shall forfeit his right to the office.—R. L. 1905, § 4797.

TITLE IV.—CRIMES AGAINST PUBLIC JUSTICE.

I.—Bribery and Corruption.

§ 954. **Certain words and terms defined.**—The following words and terms, as used in this chapter, shall be construed as follows: The word "juror" shall include a talesman, and extend to jurors in all courts,

whether of record or not, in special proceedings, and before any officer authorized to impanel a jury in any case or proceeding; the word "prison" shall mean any place designated by law for the keeping of persons held in custody under process of law or under lawful arrest; the word "prisoner," any person held in custody under process of law or under lawful arrest; the term "subornation of perjury" shall mean the wilful procuring or inducing another to commit perjury; the term "common barratry" shall mean the practice of exciting groundless judicial proceedings.—R. L. 1905, § 4798.

§ 955. **Bribery of public officer or legislator.**—Every person who gives or offers a bribe to any executive or administrative officer of the state, with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer; or who gives, offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a member of the Legislature, or attempts, directly or indirectly, by menace, deceit, suppression of truth, or other corrupt means, to influence such member to give or withhold his vote, or to absent himself from the house of which he is a member, or from any committee thereof; or who gives, offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a judicial officer, juror, referee, arbitrator, appraiser, or assessor, or other person authorized by law to hear or determine any question, matter, cause, proceeding, or controversy, with intent to influence his action, vote, opinion, or decision thereupon; or who gives, offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a person executing any of the functions of a public office, other than those hereinbefore specified, with intent to influence him in respect to any act, decision, vote, or other proceeding in the exercise of his powers or functions—shall be punished by imprisonment in the State Prison not exceeding ten years, or by fine not exceeding \$5,000, or by both.—R. L. 1905, § 4799.

§ 956. **Bribery of legislators—Penalty.**—That section of 6343 of the General Statutes of 1894 be amended to read as follows:

"§ 6343. A person who gives or offers, or causes to be given or offered a bribe or any money, property of value of any kind, or any promise or agreement therefor, to a member of the Legislature, or any person who has been elected a member of the Legislature, or attempts, directly or indirectly, by menace, deceit, suppression of truth, or other corrupt means, to influence a member or person who has been so elected a member, to give or withhold his vote or to absent himself from the house of which he is a member or to which he has been elected a member, or from any committee thereof, is punishable by imprisonment in the state prison for not more than ten years or by a fine of not more than \$5,000, or both."—G. L. 1905, Chap. 31.

§ 957. **Receiving bribes—Applies to members of legislature—Penalty.**—A member of either of the houses composing the legislature of this state, or any person who has been elected to membership therein, who asks, receives or agrees to receive, any bribe upon any understanding that his official vote, opinion, judgment or action shall be influenced thereby, or shall be given in any particular manner or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or who gives or offers, or promises to give any official vote in consideration that another member of the legislature or person elected to membership therein shall give any such vote either upon the same or another question, is punishable by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars, or both.—G. S. 1894, § 6344, as amended G. L. 1905, Chap. 32.

§ 958. **Asking or receiving bribes.**—Every executive or administrative officer, or person elected or appointed to an executive or administrative office, who asks, receives, or agrees to receive any bribe upon an agreement or understanding that his vote, opinion, or action upon any

matter then pending or which may by law be brought before him in his official capacity shall be influenced thereby; every member of either house of the Legislature of the state who asks, receives, or agrees to receive any bribe upon any understanding that his official vote, opinion, judgment, or action shall be influenced thereby, or shall be given in any particular manner or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or who gives, offers, or promises to give any official vote in consideration that another member of the Legislature shall give any such vote, either upon the same or another question; every judicial officer, every person who executes any of the functions of a public office, not hereinbefore specified, and every person employed by or acting for the state, or for any public officer in the business of the state, who asks, receives, or agrees to receive a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, upon any agreement or understanding that his vote, opinion, judgment, action, decision or other official proceeding shall be influenced thereby, or that he will do or omit any act or proceeding, or in any way neglect or violate any official duty—shall be punished by imprisonment in the State Prison not exceeding ten years, or by fine not exceeding \$5,000, or by both; and, in addition thereto, he shall forfeit his office, and be forever disqualified from holding any public office under the state.—R. L. 1905, § 4800.

§ 959. **Legislative bribery defined—Penalty.**—Section 1. Every person who gives or offers a bribe, or any consideration, to any executive or administrative officer of the state, with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer; or who gives, offers or causes to be given or offered a bribe, or any consideration, or any money, property, or value of any kind, or any promise or agreement therefor, to a member of the legislature, or attempts, directly or indirectly, by menace, deceit, suppression of truth, or other corrupt means, to influence such member to give or withhold his vote, or to absent himself from the house of which he is a member, or from any committee thereof, or who gives, offers, or causes to be given or offered, a bribe, or any consideration, or any money, property, or value of any kind, or any promise or agreement therefor, to a judicial officer, juror, referee, arbitrator, appraiser, or assessor, or other person authorized by law to hear or determine any question, matter, cause, proceeding, or controversy, with intent to influence his action, vote, opinion, or decision thereupon; or who gives, offers or causes to be given or offered, a bribe, or any consideration, or any money, property or value of any kind or any promise or agreement therefor, to a person executing any of the functions of a public officer, other than those hereinbefore specified, with intent to influence him in respect to any act, decision, vote, or other proceeding, in the exercise of his powers or functions—shall be punished by imprisonment in the state prison not exceeding ten years, or by a fine not exceeding five thousand dollars or by both. No person shall be excused from attending and testifying before any court or magistrate upon an investigation, proceeding or trial for a violation of any of the provisions of this act upon the ground, or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or subject him to a penalty or forfeiture, but no person shall be prosecuted, or subjected to any penalty or forfeiture for, or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding.—G. L. 1907, Chap. 353.

§ 960. **Jurors, etc., accepting bribes.**—Every juror, referee, arbitrator, appraiser, assessor, or other person authorized by law to hear or determine any question, matter, cause, controversy, or proceeding, who asks, receives, or agrees to receive any money, property, or value of any kind, or any promise or agreement therefor, upon any agreement or un-

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derstanding that his vote, opinion, action, judgment, or decisions shall be influenced thereby, shall be punished by imprisonment in the State Prison for not more than ten years, or by fine of not more than \$5,000, or by both.—R. L. 1905, § 4801.

§ 961. **Bribing witness.**—Every person who shall give, or offer, or promise to give, to any witness, or person about to be called as a witness, any bribe, upon any understanding or agreement that the testimony of such witness shall be thereby influenced, or who shall attempt by any other means fraudulently to induce any witness to give false testimony or to withhold true testimony, shall be guilty of a felony.—R. L. 1905, § 4802.

§ 962. **Accepting bribe by witness.**—Every person who is or is about to be a witness upon a trial, hearing, or other proceeding before any court, or any officer authorized to hear evidence or take testimony, who receives, or agrees or offers to receive, a bribe, upon any agreement or understanding that his testimony shall be influenced thereby, or that he will absent himself from the trial, hearing, or other proceeding, shall be guilty of a felony.—R. L. 1905, § 4803.

§ 963. **Influencing juror, etc.**—Every person who shall influence or attempt to influence improperly a juror in a civil or criminal action or proceeding, or one drawn or summoned to attend as such juror, or one chosen an arbitrator or appointed a referee, in respect to his verdict, judgment, report, award or decision in any cause or matter pending or about to be brought before him, in any case or in any manner not hereinbefore provided for, shall be guilty of a misdemeanor.—R. L. 1905, § 4804.

§ 964. **Juror, etc., promising verdict, etc.**—Every juror, or person drawn or summoned to attend as a juror, every person chosen arbitrator, and every person appointed referee, who shall make any promise or agreement to give a verdict, judgment, report, award, or decision for or against any party, or who shall wilfully receive any communication, book, paper, instrument, or information relating to a cause or matter pending before him, except according to the regular course of proceeding upon the trial or hearing of that cause or matter, shall be guilty of a misdemeanor.—R. L. 1905, § 4805.

§ 965. **Misconduct of officer drawing jury.**—Every officer or other person charged by law with the preparation of any jury list, or list of names from which any jury is to be drawn, and every person authorized by law to assist at the drawing or impaneling of a grand or petit jury to attend a court or term of court, or try any cause or issue, who shall—

1. Place on any such list any name at the request or solicitation, direct or indirect, of any person;
2. Designedly put upon a list of jurors, as having been drawn, any name which was not lawfully drawn for that purpose;
3. Designedly omit to place on such list any name which was lawfully drawn;
4. Designedly sign or certify a list of such jurors as having been drawn, which was not lawfully drawn;
5. Designedly withdraw from the box or other receptacle for the ballots containing the names of such jurors any paper or ballot lawfully placed or belonging there, and containing the name of a juror, or omit to place therein any name lawfully drawn or designated, or place therein a paper or ballot containing the name of a person not lawfully drawn and designated as a juror; or
6. Who, in drawing or impaneling such jury, shall do any act which is unfair, partial, or improper in any other respect—

Shall be guilty of a misdemeanor.—R. L. 1905, § 4806.

§ 966. **Juror placed on list by solicitation.**—Every person who shall directly or indirectly solicit or request any officer charged with the duty of preparing any jury list to put his name, or the name of any other person, on any such list, shall be guilty of a misdemeanor.—R. L. 1905, § 4807.

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§ 967. **Misconduct of officer in charge of jury.**—Every officer to whose charge a jury shall be committed by a court or magistrate, who negligently or wilfully, and without leave of such court or magistrate, permits them, or any one of them, to receive any communication from any person, to make any communication to any person, to obtain or receive any book, paper, or refreshment, or to leave the jury room, shall be guilty of a misdemeanor.—R. L. 1905, § 4808.

§ 968. **Offender a competent witness.**—Every person offending against any provision of law relating to bribery shall be a competent witness against another so offending, and may be compelled to attend and testify upon any trial, hearing, proceeding, or investigation, in the same manner as any other person; but, if prosecuted or indicted for such bribery, he may plead or prove the giving of such testimony in bar thereto.—R. L. 1905, § 4809.

§ 969. **Interfering with public officers.**—Every person who, by means of any threat or violence, shall attempt to deter or prevent any executive or administrative officer from performing any duty imposed upon him by law, or who shall knowingly resist, by use of force or violence, any executive or administrative officer in the performance of his duty, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4810.

§ 970. **Offering reward for appointments, etc.**—Every person who shall give or offer to give any gratuity or reward in consideration that he or any other person shall be appointed to a public office, or to a clerkship, deputation, or other subordinate position in such an office, or that he or such other person shall be permitted to exercise, perform, or discharge any prerogative or duty or receive any emolument of such an office, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4811.

§ 971. **Misconduct of public officers.**—Every executive or administrative officer who shall ask or receive any emolument, gratuity, or reward, or any promise of emolument, gratuity, or reward, except such as shall be authorized by law, for doing any official act; or who shall ask or receive any emolument, gratuity, or reward, or any promise of emolument, gratuity, or reward, for omitting or deferring the performance of any official duty; or who shall ask or receive any fee or compensation for any official service which has not been actually rendered, except in case of charges for prospective costs or fees demandable in advance, in a case allowed by law; and every person who shall ask or receive, or agree to receive, any gratuity or reward, or any promise thereof, for appointing, or procuring the appointment of, another person to a public office, or to a clerkship, deputation, or other subordinate position in such office—shall be guilty of a gross misdemeanor. And in the last case, if the offender is a public officer, he shall, upon conviction, forfeit his office.—R. L. 1905, § 4812.

§ 972. **Grant of official powers—Effect—Penalty.**—Every public officer who, for any reward, consideration, or gratuity, paid or agreed to be paid, shall directly or indirectly grant to another the right or authority to discharge any function of his office, or shall permit another to make appointments or perform any of its duties, shall be guilty of a gross misdemeanor; and every grant, appointment, or deputation made contrary to any provision of law shall be annulled by a conviction for the violation of any such provision.—R. L. 1905, § 4813.

§ 973. **Intrusion into and refusal to surrender public office.**—Every person who shall wilfully intrude himself into a public office, to which he has not been duly elected or appointed, or who, having been an executive or administrative officer, shall wilfully exercise any of the functions of his office after his right so to do has ceased, and every person who, having been an executive or administrative officer, shall wrongfully refuse to surrender the official seal, or any books or papers appertaining to his office, upon the demand of his lawful successor, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4814.

§ 974. **Disturbing legislature or intimidating a member.**—Every person who shall wilfully disturb the Legislature, or either house thereof,

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while in session, or who shall commit any disorderly conduct in the presence and view of either house thereof, tending to interrupt its proceedings or impair the respect due to its authority, or who, wilfully, by intimidation or otherwise, shall prevent any member of the Legislature from attending any session of the house of which he shall be a member, or of any committee thereof, or from giving his vote upon any question which may come before such house, or from performing any other official act, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4815.

§ 975. **Altering draft of bill.**—Every person who shall fraudulently alter the draft of any bill or resolution which has been presented to either house of the Legislature to be passed or adopted, with intent to procure it to be passed or adopted by either house, or certified by its presiding officer, in language different from that intended by such house, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4816.

§ 976. **Altering engrossed bill.**—Every person who shall fraudulently alter the engrossed copy or enrollment of any bill which has been passed by the Legislature of the state, with intent to procure it to be approved by the Governor, or certified by the Secretary of State, or printed or published by the printer of the statutes, in language different from that in which it was passed by the Legislature, shall be guilty of a felony.—R. L. 1905, § 4817.

§ 977. **Witnesses refusing to attend legislature or committee, or to testify.**—Every person duly summoned to attend as a witness before either house of the Legislature, or any committee thereof authorized to summon witnesses, who shall refuse or neglect, without lawful excuse, to attend pursuant to such summons, and every person present before either house of the Legislature, or any committee thereof authorized to summon witnesses, who shall wilfully refuse to be sworn or to affirm, or to answer any material and proper question, or to produce, upon reasonable notice, any material and proper books, papers, or documents in his possession or under his control, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4818.

II.—Rescues and Escapes.

§ 978. **Rescue of prisoners.**—Every person who, by force or fraud, shall rescue from lawful custody, or from an officer or person having him in lawful custody, a prisoner held upon a charge, arrest, commitment, conviction, or sentence for felony, shall be guilty of a felony; every person who shall so rescue a prisoner held upon a charge, arrest, commitment, conviction, or sentence for a gross misdemeanor, shall be guilty of a gross misdemeanor; and every person who shall so rescue a prisoner held upon a charge, arrest, commitment, conviction, or sentence for a misdemeanor, shall be guilty of a misdemeanor.—R. L. 1905, § 4819.

§ 979. **Taking property from officer.**—Every person who shall take from the custody of an officer or other person personal property in his charge under any process of law, or who shall wilfully injure or destroy such property, shall be guilty of a misdemeanor.—R. L. 1905, § 4820.

§ 980. **Escaped prisoner recaptured.**—Every prisoner in custody under sentence of imprisonment for any crime who shall escape from custody may be recaptured and imprisoned for a term equal to the unexpired portion of the original term.—R. L. 1905, § 4821.

§ 981. **Prisoner escaping.**—Every prisoner confined in a prison, or being in the lawful custody of an officer or other person, who shall escape from such prison or custody by force or fraud, if he is held on a charge or conviction of felony, shall be guilty of a felony; if on a charge or conviction of a gross misdemeanor, shall be guilty of a gross misdemeanor; and if on a charge or conviction of a misdemeanor, shall be guilty of a misdemeanor.—R. L. 1905, § 4822.

§ 982. **Attempt to escape from state prison.**—Every prisoner confined in a State Prison for a term less than for life, who shall attempt

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by force or fraud to escape from such prison, shall be guilty of a felony.—R. L. 1905, § 4823.

§ 983. **Aiding prisoner to escape.**—Every person who, with intent to effect or facilitate the escape of a prisoner, whether such escape shall be effected or attempted or not, shall enter a prison, or convey to a prisoner any information, or send into a prison any disguise, instrument, weapon, or other thing, and every person who shall aid or assist a prisoner in escaping or attempting to escape from the lawful custody of a sheriff or other officer or person, shall be guilty of a felony if such prisoner is held upon a charge, arrest, commitment, or conviction for a felony; shall be guilty of a gross misdemeanor if such prisoner is held upon a charge, arrest, commitment, or conviction for a gross misdemeanor; and shall be guilty of a misdemeanor if such prisoner is held upon a charge, arrest, commitment, or conviction of a misdemeanor.—R. L. 1905, § 4824.

§ 984. **Custodian suffering escape.**—Every officer or person who shall allow a prisoner lawfully in his custody to escape, or shall connive at or assist such escape, or shall omit any act or duty, by reason of which omission such escape is occasioned, contributed to, or assisted, shall, if he connive at or assist such escape, be guilty of a felony, and in any other case of a gross misdemeanor.—R. L. 1905, § 4825.

§ 985. **Ministerial officers permitting escapes.**—Every sheriff, coroner, clerk of court, constable, or other ministerial officer, and every deputy or subordinate to any such officer, who shall receive any gratuity or reward, or any security or promise of one, to procure, assist, connive at, or permit any prisoner in his custody to escape, whether such escape shall be attempted or not, or shall commit any unlawful act tending to hinder justice, shall be guilty of a misdemeanor.—R. L. 1905, § 4826.

§ 986. **Concealing escaped prisoner.**—Every person who shall knowingly or wilfully conceal, or harbor for the purpose of concealment, a person who has escaped or is escaping from custody, shall be guilty of a felony if the prisoner is held upon a charge or conviction of a felony, of a gross misdemeanor, if the prisoner is held upon a charge or conviction of a gross misdemeanor, and of a misdemeanor if such prisoner is held upon a charge or conviction of a misdemeanor.—R. L. 1905, § 4827.

III.—Public Records.

§ 987. **Injury to public records.**—Every person who shall wilfully and unlawfully remove, mutilate, destroy, conceal, or obliterate a record, map, book, paper, document, or other thing filed or deposited in a public office or with any public officer by authority of law, shall be punished by imprisonment in the State Prison for not more than five years, or by a fine of not more than \$500, or by both.—R. L. 1905, § 4828.

§ 988. **Injuries to and misappropriation of records.**—Every sheriff, coroner, clerk of court, constable, or other ministerial officer, and every deputy or subordinate of any such officer, who shall mutilate, destroy, conceal, erase, obliterate, or falsify any record or paper appertaining to his office, or who shall fraudulently appropriate to his own use, or to the use of another person, or secrete with intent to appropriate to such use, any money, evidence of debt, or other property intrusted to him in virtue of his office, shall be guilty of a felony.—R. L. 1905, § 4829.

§ 989. **Offering false instruments for filing or record.**—Every person who shall knowingly procure or offer any false or forged instrument to be filed, registered, or recorded in any public office, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or the United States, shall be guilty of a felony.—R. L. 1905, § 4830.

IV.—Perjury and Other Offenses Against Public Justice.

§ 990. **Perjury defined.**—Every person who shall swear or affirm that he will truly testify, declare, depose, or certify, or that any testimony, declaration, deposition, certificate, affidavit, or other writing by him subscribed is true, in an action or special proceeding, or upon any

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hearing or inquiry, or on any occasion in which an oath is required by law, or is necessary for the prosecution or defense of a private right or for the ends of public justice, or may lawfully be administered, and who, in such action or proceeding, or on such hearing, inquiry, or other occasion, shall wilfully and knowingly testify, declare, depose, or certify falsely in any material matter, or shall state in his testimony, declaration, deposition, affidavit, or certificate any material matter to be true, which he knows to be false, shall be guilty of perjury.—R. L. 1905, § 4831.

§ 991. **Irregularities in administering oaths—Incompetency of witness no defense.**—It shall be no defense to a prosecution for perjury that an oath has been administered or taken in an irregular manner, or that the defendant was not competent to give the testimony, deposition, or certificate of which falsehood is alleged. It shall be sufficient that he was actually permitted to give such testimony or make such deposition or certificate.—R. L. 1905, § 4832.

§ 992. **Knowledge of materiality not necessary.**—It shall be no defense to a prosecution for perjury that defendant did not know the materiality of his false statement, or that it did not, in fact, affect the proceeding in or for which it was made. It shall be sufficient that it was material, and might have affected such proceeding.—R. L. 1905, § 4833.

§ 993. **Deposition—When complete.**—The making of a deposition or certificate shall be deemed to be complete, within the provisions of this chapter, from the time when it is subscribed, sworn to, or affirmed by the defendant, with intent that it be uttered or published as true.—R. L. 1905, § 4834.

§ 994. **Statement of what one does not know to be true.**—Every unqualified statement of that which one does not know to be true is equivalent to a statement of that which he knows to be false.—R. L. 1905, § 4835.

§ 995. **Committal of witness—Detention of documents.**—Whenever it shall appear probable to a court of record, having general jurisdiction, that a person who has testified in an action or proceeding before it has committed perjury in any testimony so given, it may, by order or process for that purpose, immediately commit him to prison, or take a recognizance for his appearance to answer to an indictment for perjury. In such case, if the court shall deem that any paper or document produced by either party is necessary to be used in the prosecution for perjury, it may detain the same, and direct it to be delivered to the county attorney.—R. L. 1905, § 4836.

§ 996. **Perjury and subornation—How punished.**—Every person who shall commit perjury or subornation of perjury upon the trial of an indictment for a felony shall be punished by imprisonment in the State Prison for not less than two nor more than ten years. In every other case he shall be punished by imprisonment in the State Prison for not less than one nor more than five years.—R. L. 1905, § 4837.

§ 997. **Offering false evidence.**—Every person who, upon any trial, hearing, inquiry, investigation, or other proceeding authorized by law, shall offer or procure to be offered in evidence, as genuine, a book, paper, document, record, or other instrument in writing, knowing the same to have been forged or fraudulently altered, shall be guilty of a felony.—R. L. 1905, § 4838.

§ 998. **Destroying evidence.**—Every person who, knowing that a book, paper, record, instrument in writing, or other matter or thing, is or may be required in evidence upon any trial, hearing, inquiry, investigation, or other proceeding authorized by law, shall wilfully destroy the same, with intent thereby to prevent it from being produced, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4839.

§ 999. **Preventing witness from attending.**—Every person who shall wilfully prevent or dissuade any person who has been duly summoned or subpoenaed as a witness from attending pursuant to the summons or subpoena shall be guilty of a gross misdemeanor.—R. L. 1905, § 4840.

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§ 1000. **Inducing another to commit perjury.**—Every person who, without giving, offering, or promising a bribe, shall incite or attempt to procure another to commit perjury or to give false testimony as a witness, though no perjury is committed or false testimony given, or to withhold true testimony, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4841.

§ 1001. **Neglect or refusal to receive person into custody.**—Every officer who, in violation of a duty imposed upon him by law, shall wilfully neglect or refuse to receive a person into his official custody, or into a prison under his charge, in case no punishment is specially provided by law, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4842.

§ 1002. **Neglect of duty by officers, trustees, etc.**—Every public officer, or person holding a public trust or employment, who shall wilfully neglect or omit to perform any duty enjoined upon him by law, in case no punishment is specially provided therefor, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4843.

§ 1003. **Delaying to take prisoner before magistrate.**—Every public officer or other person having arrested any person upon a criminal charge, who shall wilfully and wrongfully delay to take him before a magistrate having jurisdiction to take his examination, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4844.

§ 1004. **Arrest without authority.**—Every public officer, or person pretending to be a public officer, who shall knowingly, under the pretense or color of any process, arrest any person or detain him against his will, or shall seize or levy upon any property, or dispossess any one of any lands or tenements, without a regular process therefor, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4845.

§ 1005. **Maliciously procuring search warrant—Misconduct in use.**—Every person who shall maliciously and without probable cause procure a search warrant to be issued and executed, and every officer who, in executing a search warrant, shall wilfully exceed his authority, or exercise it with unnecessary severity, shall be guilty of a misdemeanor.—R. L. 1905, § 4846.

§ 1006. **Refusing to make arrest or to aid an officer.**—Every person who, after having been lawfully commanded by any magistrate to arrest another person, shall wilfully neglect or refuse so to do, and every person who, after having been lawfully commanded to aid an officer in arresting any person, or in retaking any person who has escaped from lawful custody, or in executing any legal process, shall wilfully neglect or refuse to aid such officer, shall be guilty of a misdemeanor.—R. L. 1905, § 4847.

§ 1007. **Resisting public officer.**—Every person who, in any case or under any circumstances not otherwise specially provided for, shall wilfully resist, delay, or obstruct a public officer in discharging or attempting to discharge a duty of his office, shall be guilty of a misdemeanor.—R. L. 1905, § 4848.

§ 1008. **Compounding crimes.**—Every person who shall take money or other property, gratuity, or reward, or an engagement or promise therefor, upon any agreement or understanding, express or implied, to compound or conceal a crime or violation of a statute, or to abstain from, discontinue, or delay a prosecution therefor, or to withhold any evidence thereof, except in a case where a compromise is allowed by law, shall be guilty—

1. Of a felony, and punished by imprisonment in the State Prison for not more than five years, where the agreement or understanding relates to a felony punishable by death or by imprisonment in the State Prison for life;

2. Of a felony, and punished by imprisonment in the State Prison for not more than three years, where the agreement or understanding relates to any other felony;

3. Of a gross misdemeanor, and punished by imprisonment in a county jail for not more than one year, or by fine of not more than \$250, or

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both, where the agreement or understanding relates to a misdemeanor, or a gross misdemeanor, or to a violation of a statute for which a pecuniary penalty or forfeiture is prescribed.

Upon the trial of an indictment for compounding a crime, it shall not be necessary to prove that any person has been convicted of the crime or violation of statute in relation to which any agreement or understanding herein prohibited was made.—R. L. 1905, § 4849.

§ 1009. **Intimidating public officer.**—Every person who shall directly or indirectly address any threat or intimidation to a public officer, or to a juror, referee, arbitrator, appraiser, or assessor, or to any other person authorized by law to hear or determine any controversy or matter, with intent to induce him, contrary to his duty to do or make, or to omit or delay, any act, decision, or determination, shall be guilty of a misdemeanor.—R. L. 1905, § 4850.

§ 1010. **Suppressing evidence.**—Every person who shall maliciously practice any deceit or fraud, or use any threat, menace, or violence, with intent to prevent any party to an action or proceeding from obtaining or producing therein any book, paper, or other thing which might be evidence, or from procuring the attendance or testimony of any witness therein, or with intent to prevent any person having in his possession any book, paper, or other thing which might be evidence in such suit or proceeding, or to prevent any person being cognizant of any fact material thereto from producing or disclosing the same, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4851.

§ 1011. **Common barratry.**—Every person who shall excite groundless judicial proceedings shall have committed common barratry, and be guilty of a misdemeanor; but no person shall be convicted of such offense except upon proof that he has excited actions or legal proceedings in at least three instances, and with a corrupt or malicious intent to vex and annoy. Upon prosecution for common barratry, the fact that defendant was himself a party in interest or upon the record in any action or legal proceeding complained of shall not be a defense.—R. L. 1905, § 4852.

§ 1012. **Buying demands or promising reward by justice or constable.**—Every justice of the peace or constable who shall directly or indirectly buy, or be interested in buying, any thing in action, for the purpose of commencing a suit thereon before a justice, or who shall give or promise any valuable consideration to any person as an inducement to bring, or in consideration of having brought, a suit thereon before a justice, shall be guilty of a misdemeanor.—R. L. 1905, § 4853.

§ 1013. **Criminal contempts.**—Every person who shall commit a contempt of court, of any one of the following kinds, shall be guilty of a misdemeanor:

1. Disorderly, contemptuous, or insolent behavior, committed during the sitting of the court, in its immediate view and presence, and directly tending to interrupt its proceedings, or to impair the respect due to its authority.

2. Behavior of like character in the presence of a referee, while actually engaged in a trial or hearing, pursuant to an order of court, or in the presence of a jury while actually sitting for the trial of a cause, or upon an inquest or other proceeding authorized by law.

3. Breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of a court, jury, or referee.

4. Wilful disobedience to the lawful process or other mandate of a court.

5. Resistance wilfully offered to its lawful process or other mandate.

6. Contumacious and unlawful refusal to be sworn as a witness, or after being sworn, to answer any legal and proper interrogatory.

7. Publication of a false or grossly inaccurate report of its proceedings.

But no person shall be punished as herein provided for publishing a true, full, and fair report of a trial, argument, decision, or other proceeding had in court.—R. L. 1905, § 4854.

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§ 1014. **Grand juror acting after challenge allowed**—Every grand juror who, with knowledge that a challenge interposed against him by a defendant has been allowed, shall be present at, or take part, or attempt to take part in, the consideration of the charge against the defendant who interposed the challenge, or the deliberations of the grand jury thereon, shall be guilty of a misdemeanor.—R. L. 1905, § 4855.

§ 1015. **Misconduct by attorneys**—Every attorney or counsellor at law who shall be guilty of any deceit or collusion, or shall consent thereto, with intent to deceive the court or any party, or who shall delay his client's suit with a view to his own gain, shall be guilty of a misdemeanor, and, in addition to the punishment prescribed by law therefor, he shall forfeit to the party injured treble damages, to be recovered in a civil action.—R. L. 1905, § 4856.

§ 1016. **Production of pretended heir**—Every person who shall fraudulently produce an infant, falsely pretending it to have been born of a parent whose child is or would be entitled to inherit real property or to receive a share of personal property, with intent to intercept the inheritance of such real property or the distribution of such personal property, or to defraud a person out of the same or any interest therein, or who, with intent fraudulently to obtain any property, shall falsely represent himself or another to be a person entitled to an interest or share in the estate of a deceased person, as executor, administrator, husband, wife, heir, legatee, devisee, next of kin, or relative of such deceased person, shall be punished by imprisonment in the State Prison for not more than ten years.—R. L. 1905, § 4857.

§ 1017. **Substitution of child**—Every person to whom a child has been confided for nursing, education, or any other purpose, who, with intent to deceive a parent, guardian, or relative of the child, shall substitute or produce to such parent, guardian, or relative another child or person in place of the child so confided, shall be punished by imprisonment in the State Prison for not more than seven years.—R. L. 1905, § 4858.

§ 1018. **Punishment for prohibited acts**—Whenever the performance of any act is prohibited by a statute, and no penalty for the violation of the same shall be imposed in any statute, the doing of such act shall be a misdemeanor.—R. L. 1905, § 4859.

§ 1019. **Instituting suit in name of another**—Every person who shall institute or prosecute an action or other proceeding in the name of another, without his consent and contrary to the statutes, shall be guilty of a gross misdemeanor, and punished by imprisonment not exceeding six months.—R. L. 1905, § 4860.

§ 1020. **Unauthorized communication with prisoners**—Every person who, not being authorized by law or by written permission from the State Board of Control, or by consent of the warden of the prison or superintendent of the reformatory, shall have any verbal communication with a convict in the State Prison or State Reformatory, or shall bring into or convey out of such prison or reformatory any writing, clothing, food, tobacco, or other article whatsoever, to or from any convict under sentence, shall be guilty of a misdemeanor.—R. L. 1905, § 4861.

§ 1021. **Disclosure of transactions of a grand jury**—Every judge, grand juror, county attorney, clerk, or other officer, who, except in the due discharge of his official duty, shall disclose, before an accused person shall be in custody, the fact that a presentment has been made or an indictment found or ordered against him, and every grand juror who, except when lawfully required by a court or officer, shall wilfully disclose any evidence adduced before the grand jury, or anything which he himself or any other member of the grand jury said, or in what manner he or any other grand juror voted upon any matter before them, shall be guilty of a misdemeanor.—R. L. 1905, § 4862.

§ 1022. **Falsely certifying as to record**—Every officer authorized by law to record a conveyance of real property, or of any other instrument

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which by law may be recorded, who shall knowingly falsely certify that such conveyance or instrument has been recorded, shall be guilty of a felony.—R. L. 1905, § 4863.

§ 1023. **Other false certificates.**—Every public officer who, being authorized by law to make or give a certificate or other writing, shall knowingly make and deliver as true such a certificate or writing, containing any statement which he knows to be false, in a case where the punishment thereof is not expressly prescribed by law, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4864.

§ 1024. **Falsely auditing and paying claims.**—Every public officer, or person holding or discharging the duties of any office or place of trust under the state, or in any county, town, city, or village, a part of whose duty is to audit, allow, or pay, or take part in auditing, allowing, or paying, claims or demands upon the state, or such county, town, city, or village, who shall knowingly audit, allow, or pay, or directly or indirectly consent to, or in any way connive at, the auditing, allowance, or payment of, any claim or demand against the state or such county, town, city, or village, which is false or fraudulent, or contains charges, items, or claims which are false or fraudulent, shall be guilty of a felony, and punished by imprisonment in the State Prison for not less than two nor more than five years, or by a fine not exceeding \$5,000, or by both.—R. L. 1905, § 4865.

§ 1025. **Wrongfully receiving or disposing of money or property.**—Every person who, being or acting as a public officer or otherwise, by wilfully auditing or paying, or consenting to or conniving at the auditing or payment of, a false or fraudulent claim or demand, or by any other means, shall wrongfully obtain, receive, convert, dispose of, or pay out, or aid or abet another in obtaining, receiving, converting, disposing of, or paying out, any money or property held, owned, or in the possession of the state, or of any city, county, village, or other public corporation, or any board, department, agency, trustee, agent, or officer thereof, shall be guilty of a felony, and punishment by imprisonment in the State Prison for not less than three or more than five years, or by a fine not exceeding five times the amount or value of the money or property converted, paid out, lost, or disposed of by means of the act done or abetted by such person, or by both. Such fine shall be paid into the treasury of the corporation or body injured.—R. L. 1905, § 4866.

§ 1026. **Conspiracy defined—How punished.**—Whenever two or more persons shall conspire—

1. To commit a crime;
2. Falsely and maliciously to indict another for a crime, or procure him to be complained of or arrested for a crime;
3. Falsely to institute or maintain any action or special proceeding;
4. To cheat and defraud another out of property by means which are in themselves criminal, or which, if executed, would be a cheat, or to obtain money or other property by false pretenses;
5. To prevent another from exercising any lawful trade or calling, or from doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements, or property belonging to or used by another, or with the use or employment thereof;
6. Or to commit any act injurious to the public health, public morals, trade, or commerce, or for the perversion or obstruction of public justice or the due administration of the law—

Every such person shall be guilty of a misdemeanor.—R. L. 1905, § 4867.

§ 1027. **Conspiracy, when punishable—Overt act.**—No conspiracy, except one of those enumerated in the preceding section, shall be punished criminally. No agreement, except to commit a felony upon the person of another, or to commit arson or burglary, shall amount to a conspiracy, unless some act besides such agreement be done to effect the object thereof by one or more of the parties to such agreement. The orderly and peaceable assembling or co-operation of persons employed in any calling,

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trade, or handicraft, for the purpose of obtaining an advance in the rate of wages or compensation, or of maintaining such rate, is not conspiracy.—R. L. 1905, § 4868.

TITLE V.—CRIMES AGAINST THE PERSON.

1.—Definitions.

§ 1028. **Words defined.**—Suicide is the intentional taking of one's own life. Any word spoken or written and any sign uttered or made to any person, expressing or implying, or intended to express or imply, a desire, request, invitation, or demand to fight a duel, or to meet for that purpose, or to engage in any prize fight, shall be deemed a challenge to such duel or prize fight. The word "torture" and the word "cruelty," when used in reference to the treatment of children, shall include every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused or permitted.—R. L. 1905, § 4869.

II.—Suicide.

§ 1029.—**Attempting suicide—How punished.**—Every person who, with intent to take his own life, commits upon himself any act dangerous to human life, or which, if committed upon or towards another person, and followed by death as a consequence, would render the perpetrator chargeable with homicide, shall be guilty of a felony, and punished by imprisonment in the State Prison not more than two years, or by a fine not exceeding \$1,000, or by both.—R. L. 1905, § 4870.

§ 1030. **Aiding suicide.**—Every person who in any manner shall wilfully advise, encourage, abet, or assist another in taking the latter's life shall be guilty of manslaughter in the first degree.—R. L. 1905, § 4871.

§ 1031. **Abetting attempt at suicide.**—Every person who in any manner shall wilfully encourage, assist, or abet another person in attempting to take the latter's life shall be guilty of a felony.—R. L. 1905, § 4872.

§ 1032. **Incapacity of person aided, no defense.**—The fact that the person attempting to take his own life was incapable of committing crime shall not be a defense to prosecution under either of the two preceding sections.—R. L. 1905, § 4873.

III.—Homicide.

§ 1033. **Homicide defined and classified.**—Homicide is the killing of a human being by the act, procurement, or omission of another, and is either (1) murder; (2) manslaughter; (3) excusable homicide; or (4) justifiable homicide.—R. L. 1905, § 4874.

§ 1034. **Proof of death, and of killing by defendant.**—No person shall be convicted of murder or manslaughter unless the death of the person alleged to have been killed, and the fact of killing by the defendant, as alleged, are each established as independent facts—the former by direct proof, and the latter beyond a reasonable doubt.—R. L. 1905, § 4875.

§ 1035. **Murder in the first degree—how punished.**—The killing of a human being, unless it is excusable or justifiable, is murder in the first degree, when perpetrated with a premeditated design to effect the death of the person killed or of another. It shall be punished by death. Provided, that if in any such case the court shall certify of record its opinion that, by reason of exceptional circumstances, the case is not one in which the penalty of death should be imposed, the punishment shall be imprisonment for life in the state prison.—R. L. 1905, § 4876.

§ 1036. **Murder in second degree—How punished.**—Such killing of a human being is murder in the second degree, when committed with a design to effect the death of the person killed or of another, but without deliberation and premeditation, and shall be punished by imprisonment in the State prison for the offender's natural life.—R. L. 1905, § 4877.

§ 1037. **Duel fought out of the state.**—Every person who, by previous appointment made within the state, fights a duel without the state, or, by previous engagement made within or without the state, fights a duel with-

in the state, and in so doing inflicts a wound upon his antagonist, whereof he dies, or who engages or participates in such a duel as a second or assistant to either party, shall be guilty of murder in the second degree.—R. L. 1905, § 4878.

§ 1038. **Murder in third degree—How punished.**—Such killing of a human being, when perpetrated by an act eminently dangerous to others, and evincing a depraved mind, regardless of human life, although without a premeditated design to effect the death of any individual, or without a design to effect death, by a person engaged in the commission of, or in an attempt to commit, a felony either upon or affecting the person killed or otherwise, is murder in the third degree, and shall be punished by imprisonment in the State Prison for not less than seven years, nor more than thirty years.—R. L. 1905, § 4879.

§ 1039. **Manslaughter defined.**—In every case other than murder in the first, second, and third degrees, as hereinbefore in this chapter defined, homicide not excusable or justifiable is manslaughter.—R. L. 1905, § 4880.

§ 1040. **Manslaughter in first degree.**—Such homicide is manslaughter in the first degree when committed without a design to effect death—

1. By a person engaged in committing or attempting to commit a misdemeanor or gross misdemeanor affecting the person or property either of the person killed or of another; or

2. In the heat of passion, but in a cruel and unusual manner, or by means of a dangerous weapon.—R. L. 1905, § 4881.

§ 1041. **Relating to manslaughter.**—Such homicide is manslaughter in the first degree when committed without a design to effect death, either

1. By a person engaged in committing, or attempting to commit, a misdemeanor, affecting the person or property, either of the person killed, or of another; or

2. In the heat of passion, but in a cruel and unusual manner, or by means of a dangerous weapon;

3. By shooting another with a gun, or other firearm, when resulting from carelessness in mistaking the person shot for a deer or other animal.—G. S. 1894, § 6445, as amended G. L. 1905, Chap. 125.

§ 1042. **Killing of unborn child or mother.**—Every person who shall wilfully kill an unborn quick child by any injury inflicted upon the person of its mother, and every person who shall provide, supply, or administer to a woman, whether pregnant or not, or who shall prescribe for, advise, or procure a woman to take any medicine, drug, or substance, or who shall use or employ, or cause to be used or employed, any instrument or other means, with intent thereby to procure the miscarriage of a woman, unless the same is necessary to preserve her life, and the death of the woman, or that of any quick child of which she is pregnant, is thereby produced, shall be guilty of manslaughter in the first degree.—R. L. 1905, § 4882.

§ 1043. **Manslaughter in first degree, how punished.**—Manslaughter in the first degree shall be punished by imprisonment in the State Prison for not less than five nor more than twenty years.—R. L. 1905, § 4883.

§ 1044. **Manslaughter in second degree.**—Such homicide is manslaughter in the second degree when committed without a design to effect death—

1. By a person committing or attempting to commit a trespass or other invasion of a private right, either of the person killed or of another, not amounting to a crime;

2. In the heat of passion, but not by a deadly weapon or by use of means either cruel or unusual; or

3. By any act, procurement, or culpable negligence of any person, which, according to the provisions of this chapter, does not constitute the crime of murder in the first or second degree, nor manslaughter in the first degree.—R. L. 1905, § 4884.

§ 1045. **Voluntary miscarriage—Death of child.**—Every woman quick with child, who shall take or use, or submit to the use of, any drug, medicine, or substance, or any instrument or other means, with intent to produce her own miscarriage, unless the same shall be necessary to preserve her own life, or that of the child of which she is pregnant, if the death of such child shall be thereby produced, shall be guilty of manslaughter in the second degree.—R. L. 1905, § 4885.

§ 1046. **Negligent use of machinery.**—Every person who, by any act of negligence or misconduct in the business or employment in which he is engaged, or in the use or management of any machinery, animals, or property of any kind intrusted to his care or under his control, or by any unlawful, negligent, or reckless act not specified by or coming within the provisions of any other statute, occasions the death of a human being, shall be guilty of manslaughter in the second degree.—R. L. 1905, § 4886.

§ 1047. **Death caused by mischievous animals.**—Every owner of a mischievous animal, who, knowing its propensities, shall wilfully or negligently suffer it to go at large, or keep it without ordinary care, and the animal, while so at large or kept, shall kill a human being, not himself in fault, shall be guilty of manslaughter in the second degree.—R. L. 1905, § 4887.

§ 1048. **Overloading passenger vessel.**—Every person navigating a vessel for gain who shall wilfully or negligently receive so many passengers, or such quantity of other lading, on board, that by means thereof it shall sink, be overset or injured, and thereby a human being shall be drowned or otherwise killed, shall be guilty of manslaughter in the second degree. Whenever in such case human life shall only be endangered, he shall be guilty of a misdemeanor.—R. L. 1905, § 4888.

§ 1049. **Reckless operation of steamboats and engines.**—Every person having charge of a steamboat used for the conveyance of passengers, or of a boiler or engine thereof, who, from ignorance, recklessness, or gross neglect, or for the purpose of excelling any other boat in speed, shall create, or allow to be created, such an undue quantity of steam as to burst the boiler or other apparatus in which it is generated or contained, or to break any apparatus or machinery connected therewith, whereby the death of a human being is occasioned, and every engineer or other person having charge of a steam boiler, steam engine or other apparatus for generating or applying steam employed in a boat or railway, or in a manufactory or in any mechanical works, or otherwise, who wilfully or from ignorance or gross neglect shall create or allow to be created such an undue quantity of steam as to burst the boiler, engine, or apparatus, or to cause any other accident whereby the death of a human being shall be caused, shall be guilty of manslaughter in the second degree.—R. L. 1905, § 4889.

§ 1050. **Light to be placed at bow of launch or at mast of sail boat.**—Every person who navigates any steam launch, gasoline launch or sailboat, or who permits any such boat owned by him to be navigated, at night, on any waters of this state without having such boat equipped with a suitable light, placed at the bow of any such launch or at the mast of any such sailboat, and so arranged as to be plainly visible for at least one hundred yards, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment for not less than ten days nor more than thirty days.—G. L. 1909, Chap. 146.

§ 1051. **Liability of intoxicated physician.**—Every physician or surgeon, or person practicing as such, who, being in a state of intoxication, shall administer any poison, drug, or medicine, or do any other act as a physician, to another person, which, though done without a design to effect death, shall cause the death of the latter, shall be guilty of manslaughter in the second degree. Whenever the life of the latter shall only be endangered or seriously affected thereby, he shall be guilty of a gross misdemeanor.—R. L. 1905, § 4890.

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§ 1052. **Keeping gunpowder unlawfully—Death resulting.**—Every person who shall make or keep gunpowder or any other explosive substance in a city or village, in any quantity or manner prohibited by law or by ordinance of such municipality, if any explosion thereof shall occur, whereby the death of a human being is occasioned, shall be guilty of manslaughter in the second degree.—R. L. 1905, § 4891.

§ 1053. **Punishment of manslaughter in second degree.**—Manslaughter in the second degree shall be punished by imprisonment in the State Prison for not less than one nor more than fifteen years, or by a fine of not more than one thousand dollars, or by both.—R. L. 1905, § 4892.

§ 1054. **Homicide, when excusable.**—Homicide is excusable when committed by accident or misfortune in doing any lawful act, by lawful means, with ordinary caution, and without any unlawful intent.—R. L. 1905, § 4893.

§ 1055. **Justifiable homicide by public officer.**—Homicide is justifiable when committed by a public officer, or person acting under his command and in his aid, in the following cases:

1. In obedience to the judgment of a competent court.

2. When necessary to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty.

3. When necessary in retaking an escaped or rescued prisoner who has been committed, arrested for, or convicted of a felony, or in arresting a person who has committed a felony and is fleeing from justice, or in attempting by lawful ways or means to apprehend a person for a felony actually committed, or in lawfully suppressing a riot or preserving the peace.—R. L. 1905, § 4894.

§ 1056. **Homicide by other person, justifiable when.**—Homicide is also justifiable when committed, either—

1. In the lawful defense of the slayer, or of his or her husband, wife, parent, child, brother, sister, master, or servant, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony, or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished; or

2. In the actual resistance of an attempt to commit a felony upon the slayer, in his presence, or upon or in a dwelling or other place of abode in which he is.—R. L. 1905, § 4895.

IV.—Maiming.

§ 1057. **Maiming defined—How punished.**—Every person who, with intent to commit a felony, or to injure, disfigure, or disable another, shall wilfully inflict upon him an injury which—

1. Seriously disfigures his person by any mutilation thereof;

2. Destroys or disables any member or organ of his body; or,

3. Seriously diminishes his physical vigor by the injury of any member or organ—

Shall be guilty of maiming, and be punished by imprisonment in the State Prison for not less than one nor more than fifteen years, and the infliction of the injury shall be prima facie evidence of the intent.—R. L. 1905, § 4896.

§ 1058. **Maiming one's self to escape duty or obtain alms.**—Every person who, with design to disable himself from performing a legal duty, existing or anticipated, shall inflict upon himself an injury whereby he is so disabled, and every person who shall so injure himself with intent to avail himself of such injury to excite sympathy or to obtain alms or some charitable relief, shall be guilty of a felony.—R. L. 1905, § 4897.

§ 1059. **Instrument or manner of maiming.**—To constitute maiming, it is immaterial by what means or instrument or in what manner the injury was inflicted.—R. L. 1905, § 4898.

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§ 1060. **Recovery from injury, when a defense.**—Whenever, upon a trial for maiming another person, it shall appear that the injured person has so far recovered that he is no longer disfigured in personal appearance, disabled in any member or organ of his body, or affected in physical vigor, no conviction for maiming shall be had; but the defendant may be convicted of assault in any degree.—R. L. 1905, § 4899.

V.—Kidnapping.

§ 1061. **Kidnapping—How punished.**—Every person who shall wilfully—

1. Seize, confine, or inveigle another, with intent to cause him, without authority of law, to be secretly confined or imprisoned within the state, or sent out of it, to be sold as a slave or in any way held to service, or kept or detained against his will;

2. Lead, take, entice away or detain a child under the age of sixteen years, with intent to keep or conceal him from his parent, guardian, or other person having lawful care or control of him, or to extort or obtain money or reward for his return or disposition, or with intent to steal any article upon his person; or,

3. Abduct, entice, or, by force or fraud, unlawfully take or carry away another, at or from a place without the state, or procure, advise, aid, or abet such abduction, enticing, taking, or carrying away, and shall afterwards send, bring, or keep such person, or cause him to be kept or secreted, within this state—

Shall be guilty of kidnapping, and punished by imprisonment in the State Prison for not more than forty years.—R. L. 1905, § 4900, as amended G. L. 1909, Chap. 325.

§ 1062. **Selling services of person kidnapped.**—Every person who, within this state or elsewhere, shall sell or in any manner transfer for any term the services or labor of any person who has been forcibly taken, inveigled, or kidnapped in or from the state, shall be punished by imprisonment in the State Prison for not more than ten years.—R. L. 1905, § 4901.

§ 1063. **Indictment—Where triable—Effect of consent of person injured.**—Every indictment for kidnapping may be found and tried either in the county where the offense was committed, or in any county through or in which the person kidnapped or confined was taken or kept while under confinement or restraint. Upon a trial for violation of the two preceding sections, the consent thereto of the person kidnapped or confined shall not be a defense, unless it appears satisfactorily to the jury that such person was above the age of sixteen years, and that his consent was not extorted by threats or duress.—R. L. 1905, § 4902.

VI.—Assault.

§ 1064. **Assault in first degree defined—How punished.**—Every person who, with intent to kill a human being or to commit a felony upon the person or property of the one assaulted or of another—

1. Shall assault another with a loaded firearm or any other deadly weapon, or by any force or means likely to produce death; or

2. Shall administer or cause to be administered to, or taken by, another, poison or any other destructive or noxious thing, so as to endanger the life of such other person, shall be guilty of assault in the first degree, and be punished by imprisonment in the State Prison for not less than five nor more than ten years.—R. L. 1905, § 4903.

§ 1065. **Assault in second degree defined—How punished.**—Every person who, under circumstances not amounting to assault in the first degree—

1. With intent to injure, shall unlawfully administer or cause to be administered to, or taken by, another, poison or any other destructive or noxious thing, or any drug or medicine, the use of which is dangerous to life or health;

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2. With intent thereby to enable or assist himself or any other person to commit any crime, shall administer or cause to be administered to, or taken by, another, chloroform, ether, laudanum, or any other intoxicating narcotic or anaesthetic;

3. Shall wilfully and wrongfully wound or inflict grievous bodily harm upon another, with or without a weapon;

4. Shall wilfully and wrongfully assault another with a weapon or other instrument or thing likely to produce grievous bodily harm; or

5. Shall assault another with intent to commit a felony, or to prevent or resist the execution of any lawful process or mandate of any court or officer, or the lawful apprehension or detention of himself or of any other person—

Shall be guilty of an assault in the second degree, and be punished by imprisonment in the State Prison for not more than five years, or by a fine of not more than one thousand dollars, or by both.—R. L. 1905, § 4904.

§ 1066. **Assault in third degree—How punished.**—Every person who shall commit an assault, or an assault and battery, not amounting to an assault in either the first or second degree, shall be guilty of an assault in the third degree, and be punished by imprisonment in a county jail for not more than three months, or by a fine of not more than one hundred dollars.—R. L. 1905, § 4905.

§ 1067. **Force or violence, when lawful.**—The use, attempt, or offer to use force or violence upon or toward the person of another shall not be unlawful in the following cases:

1. Whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting him and acting under his direction.

2. Whenever necessarily used by a person arresting one who has committed a felony, and delivering him to a public officer competent to receive him into custody.

3. Whenever used by a party about to be injured, or by another lawfully aiding him, in preventing or attempting to prevent an offense against his person, or a trespass or other unlawful interference with real or personal property lawfully in his possession, in case the force is not more than shall be necessary.

4. Whenever used in a reasonable and moderate manner by a parent or his authorized agent, a guardian, master, or teacher, in the exercise of lawful authority, to restrain or correct his child, ward, apprentice, or scholar.

5. Whenever used by a carrier of passengers or his authorized agent or servant, or other person assisting them at their request, in expelling from a carriage, railway car, vessel, or other vehicle a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is no more than shall be necessary to expel the offender, with reasonable regard to his personal safety.

6. Whenever used by any person to prevent an idiot, lunatic, or insane person from committing any act dangerous to himself or another, or in enforcing necessary restraint for the protection of his person or his restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of his person.—R. L. 1905, § 4906.

§ 1068. **Abusive or obscene language a misdemeanor.**—Any person who shall use in reference to and in the presence of another, or in reference to or in the presence of any member of the family of another, abusive or obscene language, intended or naturally tending, to provoke an assault or any breach of the peace shall be guilty of misdemeanor.—G. L. 1907, Chap. 96.

VII.—Robbery.

§ 1069. **Robbery Defined.**—Robbery is the unlawful taking of personal property from the person of another or in his presence, against his will,

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by means of force or violence, or fear of injury, immediate or future, to his person or property, or the person or property of a relative or member of his family, or of any one in his company at the time of the robbery. Such force or fear must be used to obtain or retain possession of the property, or to prevent or overcome resistance to the taking; in either of which cases the degree of force used is immaterial. If used merely as a means of escape, it does not constitute robbery. Such taking from the person of another constitutes robbery whenever it appears that, although the taking was fully completed without his knowledge, such knowledge was prevented by the use of force or fear.—R. L. 1905, § 4907.

§ 1070. Robbery in first degree, how punished.—Every such unlawful taking, if accompanied by force or fear, in any case specified in the preceding section, shall be robbery in the first degree—

1. When committed by a person armed with a dangerous weapon; or
2. By a person aided by an accomplice actually present; or
3. Whenever the offender, in order to accomplish the robbery, shall inflict grievous bodily harm or injury upon the person from whose possession, or in whose presence, the property is taken, or upon his spouse, parent, child, servant, or member of his family, or any one in his company at the time—

And shall be punished by imprisonment in the State Prison for not less than five nor more than twenty years.—R. L. 1905, § 4908.

§ 1071. Punishment of robbery in first degree.—Robbery in the first degree is punishable by imprisonment in the State Prison for not less than five (5) years, nor more than forty (40) years; provided that this act shall not apply to any act done or offense committed prior to the passage hereof, but the provisions of the law now in force prescribing the punishment of said offense shall continue in force as to all such offenses. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.—G. S. 1894, § 6485, as amended G. L. 1905, Chap. 114.

§ 1072. Robbery in second degree, how punished.—Such unlawful taking, when accomplished by force or fear, in a case specified in the two preceding sections, but not under circumstances amounting to robbery in the first degree, shall be robbery in the second degree when accomplished—

1. By the use of violence; or,
2. By putting the person robbed in fear of immediate injury to his person, or that of some one in his company—

And shall be punished by imprisonment in the State Prison for not less than two nor more than fifteen years.—R. L. 1905, § 4909.

§ 1073. Robbery in third degree, how punished.—Every person who shall rob another, under circumstances not amounting to robbery in the first or second degree, shall be guilty of robbery in the third degree, and be punished by imprisonment in the State Prison for not more than ten years.—R. L. 1905, § 4910.

VIII.—Duels.

§ 1074. Duel and challenge, how punished.—Every person who shall fight a duel, or engage in any combat with another with a deadly weapon, by previous agreement or upon a previous quarrel, although no death or wound shall ensue, shall be punished by imprisonment in the State Prison for not less than two nor more than ten years. And upon conviction he shall thereafter be incapable of holding, or of being elected or appointed to, any office or place of trust or emolument, civil or military.—R. L. 1905, § 4911.

§ 1075. Challenger, abettor, etc.—Every person who shall challenge another to fight a duel, or who shall send a written or verbal message purporting or intended to be a challenge to fight a duel, or an invitation to a combat with deadly weapons, or who accepts such a challenge or message, or who knowingly carries or delivers such challenge or mes-

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sage, or is present at the time appointed for such duel or combat, or when the same is fought, either as second, aid, or surgeon, or who advises or abets, or gives any countenance or assistance to, such duel or combat upon previous agreement, shall be punished by imprisonment in the State Prison for not more than seven years.—R. L. 1905, § 4912.

§ 1076. **Attempt to induce challenge—Posting.**—Every person who shall send or use to another any word or sign whatsoever with intent to provoke or induce such person to give or receive a challenge to fight a duel or who shall post or advertise another for not fighting a duel, or for not sending or accepting a challenge to fight a duel, or who in writing or in print shall use reproachful or contemptuous language to or concerning any one for not sending or accepting a challenge to fight a duel, or for not fighting a duel, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4913.

§ 1077. **Duel outside state, where indictable.**—Every person who leaves the state with intent to elude any provision of law contained in the three preceding sections, or to commit any act outside of the state, punished by the provisions thereof if committed in the state, shall be guilty of the same offense and subject to the same punishment as if the act had been committed or was to have been consummated in the state, and may be indicted and tried in any county therein; but he may plead a former conviction or acquittal in another state or country for the same offense, which, if established, shall be a bar to further proceedings against him for such offense.—R. L. 1905, § 4914.

§ 1078. **Witnesses.**—Every person offending against any provision contained in any of the four preceding sections shall be a competent witness against any other offender in the same transaction, and shall not be excused from testifying or answering any question upon any investigation or trial of any offense thereunder, upon the ground that his testimony might tend to convict him of a crime.—R. L. 1905, § 4915.

IX.—Libel—Slander of Women.

§ 1079. **Libel defined—A misdemeanor.**—Every malicious publication by writing, printing, picture, effigy, sign, or otherwise than by mere speech, which shall expose any living person, or the memory of one deceased, to hatred, contempt, ridicule, or obloquy, or which shall cause or tend to cause any person to be shunned or avoided, or which shall have a tendency to injure any person, corporation, or association of persons in his or their business or occupation, shall be a libel. Every person who publishes a libel shall be guilty of a misdemeanor.—R. L. 1905, § 4916.

§ 1080. **How justified or excused—Malice, when presumed.**—Every publication having the tendency or effect mentioned in the preceding section shall be deemed malicious if no justification or excuse therefor is shown. Such publication is justified whenever the matter charged as libelous is true and was published with good motives and for justifiable ends. It is excused when honestly made, in belief of its truth, and upon reasonable grounds for such belief, and consists of fair comments upon the conduct of a person in respect of public affairs.—R. L. 1905, § 4917.

§ 1081. **Publication defined.**—To sustain the charge of publishing a libel, it is not necessary that the matter complained of should have been seen by another. It is enough that the defendant knowingly displayed it, or parted with its immediate custody, under circumstances which exposed it to be seen or understood by a person other than himself.—R. L. 1905, § 4918.

§ 1082. **Liability of editors and others.**—Every editor or proprietor of a book, newspaper, or serial, and every manager of a copartnership or corporation by which any book, newspaper or serial is issued, is chargeable with the publication of any matter contained in such book, newspaper, or serial. But in every prosecution for libel the defendant may show in his defense that the matter complained of was published without his knowl-

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edge or fault, and against his wishes, by another who had no authority from him to make such publication, and whose act was disavowed by him as soon as known.—R. L. 1905, § 4919.

§ 1083. **Reports of proceedings privileged—Qualification.**—No prosecution for libel shall be maintained against a reporter, editor, publisher, or proprietor of a newspaper for the publication therein of a fair and true report of any judicial, legislative, or other public and official proceeding, or of any statement, speech, argument, or debate in the course of the same, without proving actual malice in making the report. But the foregoing shall not apply to a libel contained in the heading of the report, or in any matter added by another person concerned in the publication, or in the report of anything said or done at the time and place of the public and official proceeding, which was not a part thereof.—R. L. 1905, § 4920.

§ 1084. **Where indicted—Punishment restricted.**—Every indictment for a libel contained in a newspaper published in the state may be found in any county where the paper was published or circulated, but a person shall not be indicted or tried for the publication of the same libel against the same person in more than one county.—R. L. 1905, § 4921.

§ 1085. **Privileged communications.**—Every communication made to a person entitled to or interested in such communication, by one also interested in or entitled to make it, or who stood in such relation to the former as to afford a reasonable ground for supposing his motive innocent, shall be presumed not to be malicious, and shall be termed a privileged communication.—R. L. 1905, § 4922.

§ 1086. **Threatening to publish libel.**—Every person who shall threaten another with the publication of a libel concerning the latter or his spouse, parent, child, or other member of his family, and every person who offers to prevent the publication of a libel upon another person on condition of the payment of, or with intent to extort, money or other valuable consideration from any person, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4923.

§ 1087. **Slander of women—Punishment.**—Every person who, in the presence and hearing of another, other than the female slandered, whether she be present or not, shall maliciously speak of or concerning any female of the age of twelve years or upwards, not a public prostitute, any false or defamatory words or language which shall injure or impair the reputation of such female for virtue or chastity, or which shall expose her to hatred, contempt, or ridicule, shall be guilty of a misdemeanor. Every slander herein mentioned shall be deemed malicious if no justification therefor be shown, and shall be justified when the language charged as slanderous, false, or defamatory is true, and was spoken with good motives and for justifiable ends.—R. L. 1905, § 4924.

§ 1088. **Testimony necessary to convict.**—No conviction shall be had under the provisions of the preceding section upon the testimony of the woman slandered, unsupported by other evidence, but must be proved by the evidence of at least two persons other than such woman, who heard and understood the language charged as slanderous, or by the admission of the defendant.—R. L. 1905, § 4925.

TITLE VI.—OFFENSES AGAINST MORALITY, DECENCY, ETC.

1.—Rape, Abduction, Carnal Abuse of Children, and Seduction.

§ 1089. **Rape, how punished.**—Rape is an act of sexual intercourse with a female not the wife of the perpetrator, committed against her will or without her consent. Every person who shall perpetrate such an act of sexual intercourse with a female of ten years or upwards, not his wife—

1. When through idiocy, imbecility, or any unsoundness of mind, either temporary or permanent, she is incapable of giving consent;
2. When her resistance is forcibly overcome;

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3. When her resistance is prevented by fear of immediate and great bodily harm, which she has reasonable cause to believe will be inflicted upon her;

4. When her resistance is prevented by stupor or by weakness of mind produced by an intoxicant, narcotic, or anaesthetic agent administered by or with the privy of the defendant; or

5. When she is at the time unconscious of the nature of the act, and this is known to the defendant—

Shall be punished by imprisonment in the State Prison for not less than seven nor more than thirty years.—R. L. 1905, § 4926.

§ 1090. **Carnal knowledge of children, how punished.**—Every person who shall carnally know and abuse any female child under the age of eighteen years shall be punished as follows:

1. When such child is under the age of ten years, by imprisonment in the State Prison for life.

2. When such child is ten and under the age of fourteen years, by imprisonment in the State Prison for not less than seven nor more than thirty years.

3. When such child is fourteen and under the age of eighteen years, by imprisonment in the State Prison for not more than seven years, or by imprisonment in the county jail for not more than one year.—R. L. 1905, § 4927, as amended G. L. 1909, Chap. 92, § 1.

§ 1091. **Physical ability, when to be proved—Penetration.**—No conviction for rape shall be had against one under the age of fourteen years at the time of the alleged act, unless his physical ability to accomplish penetration is proved as an independent fact, beyond a reasonable doubt. In all cases of rape any sexual penetration, however slight, is sufficient to complete the crime.—R. L. 1905, § 4928.

§ 1092. **Compelling woman to marry.**—Every person who, by force, menace, or duress, shall compel a woman against her will to marry him, or to marry any other person, or to be defiled, shall be punished by imprisonment in the State Prison for not less than three nor more than thirty years, or by a fine of not more than \$1,000, or by both.—R. L. 1905, § 4929.

§ 1093. **Abduction—Evidence.**—Every person who—

1. Shall take a female under the age of eighteen years, for the purpose of prostitution or sexual intercourse, or, without the consent of her father, mother, guardian or other person having legal charge of her person, for the purpose of marriage;

2. Shall inveigle or entice an unmarried female under the age of twenty-five years, of previous chaste character, into a house of ill fame or assignation, or elsewhere for the purpose of prostitution or sexual intercourse;

3. Shall take or detain a woman unlawfully against her will, with intent to compel her by force, menace, or duress to marry him or any other person, or to be defiled, or,

4. Being parent, guardian, or other person having legal charge of the person of a female under the age of eighteen years, shall consent to her taking or detention by any person for the purpose of prostitution or sexual intercourse—

Shall be guilty of abduction and punished by imprisonment in the State Prison for not more than five years, or by a fine of not more than one thousand (\$1,000.00) dollars, or both.

But no conviction shall be had for abduction or compulsory marriage upon the unsupported testimony of the female abducted or compelled.—R. L. 1905, § 4930, as amended G. L. 1909, Chap. 92, § 2.

§ 1094. **Seduction under promise of marriage—Evidence.**—Every person who, under promise of marriage, shall seduce and have sexual intercourse with an unmarried female of previous chaste character, shall be punished by imprisonment in the State Prison for not more than five

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years, or by a fine of not more than \$1,000, or by both. But no conviction shall be had for the offense specified herein upon the unsupported testimony of the female seduced. The subsequent intermarriage of the parties, or the lapse of two years after the commission of the offense before the finding of an indictment, shall be a bar to a prosecution for a violation of this section.—R. L. 1905, § 4931.

§ 1095. **Indecent assault.**—Every person who shall take any indecent liberties with or on the person of any female, not a public prostitute, without her consent expressly given, and which acts do not in law amount to rape, an attempt to commit a rape, or an assault with intent to commit a rape, and every person who shall take such indecent liberties with or on the person of any female under the age of fourteen years, without regard to whether she shall consent to the same or not, shall be guilty of a felony.—R. L. 1905, § 4932.

II.—Abandonment—Crimes Regarding Children, Etc.

§ 1096. **Abandonment of wife or child.**—Every parent or other person having the care or custody, for nurture or education, of a child under the age of ten years, who shall desert such child in any place with intent wholly to abandon it, shall be punished by imprisonment in the State Prison for not more than one year; and a husband who, without lawful excuse and against her will, shall so desert his wife, shall be guilty of a misdemeanor.—R. L. 1905, § 4933.

§ 1097. **Failure to support wife or child.**—Every man who, without lawful excuse, wilfully fails to furnish proper food, shelter, clothing, or medical attendance to his wife, or to his child under fifteen years of age, shall be guilty of a misdemeanor. But if any person convicted under this section shall give bond to the state, in such amount and with such sureties as the court shall prescribe and approve, conditioned to furnish such wife or child with proper food, shelter, clothing, and medical attendance for a period of three months, or such longer time as it shall direct, judgment may be suspended until some condition of such bond is violated. Upon complaint of such violation to the court before which the conviction was had, the accused shall be heard upon an order to show cause, and if the charge be sustained, the court shall forthwith proceed as if judgment had not been suspended. Such wife or child, and any person furnishing necessary food, shelter, clothing, or medical attendance to either, may sue upon such bond for a breach of any condition thereof.—R. L. 1905, § 4934.

§ 1098. **Abandonment of wife or children—Proceedings.**—On complaint being made to any justice of the peace or judge of any municipal court by the wife of any person accusing such person of wilfully omitting, without lawful excuse, to furnish proper food, clothing, and shelter, or suitable care in case of sickness, to his wife or minor child under fifteen years of age, or upon similar complaint by any member of the board of county commissioners of the county wherein any such wife or minor child resides, the justice or judge shall take such complaint in writing, under the oath of such wife, or of such county commissioner, and shall thereupon issue his warrant against the person accused, directed to the sheriff or constable of his county, commanding him, forthwith, to bring such accused person before the justice or judge to answer such complaint.—G. L. 1903, Chap. 222, § 1, as amended by G. L. 1905, Chap. 217.

§ 1099. **Title of action—Examination.**—The justice or judge shall enter an action in his docket in which the state of Minnesota is plaintiff and the accused is defendant, and shall make such other entries as are required in criminal actions. On the return of the warrant with the accused the justice or judge shall proceed to examine under it the complainant and such other witnesses as may be produced by the parties respecting the complaint, and such examination shall be reduced to writing by the justice or judge. The accused shall be entitled to removal of such action as in a criminal examination before the justice of the peace.—G. L. 1903, Chap. 222, § 2.

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§ 1100. **Accused discharged, when.**—If such accused person pays or secures to be paid to the wife complaining such sum of money or other property as the court shall order or as she may agree to receive in full satisfaction, of which order or agreement the justice or judge shall make memorandum upon his docket and shall also pay all expenses and the costs of prosecution and shall also give bond to the state of Minnesota in such sum as the justice or judge shall fix, with sufficient sureties, to be approved by the justice or judge, conditioned that he will furnish such child and wife with the necessary and proper home, food, care and clothing, then the justice or judge shall discharge such accused person.—G. L. 1903, Chap. 222, § 3.

§ 1101. **Bound over to appear at next term of court.**—In case any person accused as aforesaid does not comply with the provisions of the preceding sections and there is probable cause for belief that he is guilty as charged in the complaint, the justice or judge shall require such person to enter into recognizance with one or more sufficient sureties to be approved by the justice or judge in a sum of not less than \$100 nor more than \$500, to appear at the next term of the district court for the proper county to answer the said complaint and abide the order of said court thereon; and on his neglect or refusal to give such recognizance the justice or judge shall commit him to jail of the county, there to be held to answer such complaint at the next term of such court; and such justice or judge shall thereupon certify the examination taken before him and return the same and all processes and papers in the case to the clerk of said court.—G. L. 1903, Chap. 222, § 4.

§ 1102. **Continuance of case.**—If at any time there is any sufficient reason therefor, the court may order a continuance of the cause, and such continuance shall operate to renew the recognizance and the same shall remain in full force until final judgment; provided that, if the sureties in the recognizance shall at any term of said court surrender the accused and request to be discharged such recognizance, or if the court shall for any cause deem it proper, such court may order a new recognizance to be taken and commit the defendant until he gives such new recognizance.—G. L. 1903, Chap. 222, § 5.

§ 1103. **The issue to be.**—Upon the trial of the action, the issue shall be whether the accused is guilty or not; if he is found guilty or if he admits the truth of the accusation, he shall be adjudged to pay such wife or minor child such sums of money and in such manner and at such times as the court may fix and direct.—G. L. 1903, Chap. 222, § 6.

§ 1104. **Disobedience of order of court—Contempt of court, punishment.**—And if such person shall disobey such order or directions, the court may sequester his personal estate and the rents and profits of said real estate to be applied according to the terms of such order or direction. Or the court, whenever it shall find the fact to be that such person has an income or earnings from any source sufficient to enable him to pay the sum or sums specified in such order or obey such directions and fails so to do, may punish such person for contempt, and the court, if it shall have reason to believe that said person can earn sufficient to enable him to pay such sums or obey such order, may cause such person to be confined in the county jail until such person complies with the direction and order of the court, or in the discretion of the court until the said person shall give bond, with good and sufficient sureties, in an amount to be prescribed by the court, conditioned to pay such amount and to comply with the orders and directions of the court, which bonds shall be approved by the court.—G. L. 1903, Chap. 222, § 7.

§ 1105. **Wife competent witness without consent of husband.**—In all cases brought under the provisions of this act the wife shall be a competent witness against her husband without his consent, and may be subpoenaed and compelled to testify against him.—G. L. 1903, Chap. 222, § 8.

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§ 1106. **Ch. 316, 1901, repealed.**—That Chapter 316, General Laws of the State of Minnesota for the year 1901, be and the same is hereby repealed.—G. L. 1903, Chap. 222, § 9.

§ 1107. **Endangering life, health, or morals of minors.**—Every person having the care or custody of a minor who—

1. Shall wilfully cause or permit his life to be endangered, his health to be injured, or his morals to become depraved; or who

2. Shall wilfully cause or permit such minor to be placed in a situation, or to engage in an occupation, which will be likely to endanger his life, injure his health, or impair his morals—

Shall be guilty of a gross misdemeanor.—R. L. 1905, § 4935.

§ 1108. **Keepers of public places to exclude minors.**—Whoever permits any person under the age of twenty-one years to be or remain in any dancehouse, concert saloon, place where intoxicating liquors are sold or given away, or any place of entertainment injurious to the morals, owned, kept, or managed by him in whole or in part, or shall permit any person under the age of twenty-one years to play any game of skill or chance in any such place, shall be guilty of a misdemeanor, and be punished by a fine of not less than \$25.—R. L. 1905, § 4936.

§ 1109. **Minor pupils prohibited from entering billiard halls, ten pin alleys, etc.**—All persons under the age of eighteen years or who are minor pupils in any school, college or university are prohibited from playing pool or billiards or ten pins or bowling, whether on a ten pin alley or a box ball alley in any public pool or billiard room or bowling alley or in any public place of business, and any person under the age of eighteen years of age, or any minor pupil in any school, college or university who shall engage in any game of pool or billiard or bowling in any such place, or frequent, or loiter within any pool or billiard room or bowling alley, or public place of business where pool, billiard or bowling are played, shall be guilty of a misdemeanor and shall be punished by a fine of not exceeding ten (10) dollars.—G. L. 1909, Chap. 133, § 1.

§ 1110. **Proprietors of pool and billiard rooms and bowling alleys prohibited from allowing pupils to frequent such places.**—Every keeper or person in charge of any public pool or billiard room, public bowling alley or public place of business where pool, billiards or bowling are played who shall permit or allow any person under the age of eighteen (18) years of age, or any minor pupil of any school, college or university to play any of said games therein, or to gather in, loiter in or frequent any such place, shall be guilty of a misdemeanor and be punished by a fine of not less than twenty-five (25) dollars, or by imprisonment in the county jail not exceeding thirty (30) days.—G. L. 1909, Chap. 133, § 2.

§ 1111. **Parents may give permission in writing.**—Nothing in this act shall prohibit the parents or lawful guardians of such minors from granting privileges prohibited by this act, provided that same shall be in writing, signed by such parent or guardian.—G. L. 1909, Chap. 133, § 3.

§ 1112. **Minors—Gaming by prohibited, where—How punished.**—All persons under the age of twenty-one years are prohibited from playing pool or billiards or cards in any saloon or room connected therewith, or in any restaurant or public place of amusement in which tobacco, confectiory, or drinks of any kind, except water, are in any manner disposed of; and every keeper or person in charge of any such place who shall permit or suffer any person under the age of twenty-one years to play pool, billiards, or cards therein shall be guilty of a misdemeanor, and be punished by a fine of not less than \$25, or by imprisonment in the county jail not exceeding thirty days.—R. L. 1905, § 4937.

§ 1113. **To prohibit the manufacture, sale or use of adulterated cigarettes, and prohibiting the use of tobacco by minor persons, and by all minor pupils of public schools—Penalty.**—Any person within the state who manufactures, sells or gives to any one, or uses any cigarette containing any substance foreign to tobacco, shall be punished by a fine of

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not more than fifty dollars (\$50) or imprisonment in a county jail for not more than thirty days.—G. L. 1907, Chap. 386, § 1.

§ 1114. **Selling.**—Any person within this state who sells, gives to, or in any way furnishes any cigarettes, cigars or tobacco in any form to any person under eighteen (18) years of age, or to any minor pupil in any school, college or university, shall be punished by a fine not to exceed fifty dollars (\$50) or imprisonment in the county jail not to exceed thirty days for each offense.—G. L. 1907, Chap. 386, § 2.

§ 1115. **Age limit.**—Any person under eighteen (18) years of age, any minor pupil, as described in section two (2) of this act, who shall smoke or use cigarettes, cigars or tobacco in any form on any public highway, street, alley, park or other lands used for public purposes, or in any public place of business, shall be arrested by an officer of the law, who may be cognizant of such offense; and further, it shall be the duty of all such officers, upon complaint of one citizen, to arrest such offenders and take them before the proper court. The court shall impose a punishment at its discretion in the sum of not to exceed ten (\$10) dollars, or imprisonment in the county jail not to exceed five (5) days for each offense; provided, if said minor person shall give information which may lead to the arrest of the person or persons violating section two (2) of this act, in giving or selling to, or in any way furnishing said minor person tobacco, and shall give evidence as a witness in such proceedings against said party or parties, the court shall have power to suspend sentence against such minor person.—G. L. 1907, Chap. 386, § 3.

§ 1116. **Minors.**—Any person who harbors or grants to persons under eighteen (18) years of age, or to minor pupils as described in section two (2) of this act, privilege or gathering upon or frequenting any property or lands held by him, for the purpose of indulging in the use of cigarettes, cigars or tobacco in any form, shall be held in the same penalty as provided for in section two (2) of this act; provided, that no part of this act shall be so construed as to interfere with the rights of parents or lawful guardians in the rearing and management of their minor heirs or wards, within the bounds of their own private premises. Be it further enacted that grand juries shall have inquisitorial powers over offenses committed under this act.—G. L. 1907, Chap. 386, § 4 and § 5.

§ 1117. **Employment of minors prohibited.**—Every person who shall employ or cause to be employed, exhibit, or have in his custody for exhibition or employment, any minor actually or apparently under the age of eighteen years; and every parent, relative, guardian, employer, or other person having the care, custody, or control of any such minor, who shall sell, let out, give away, or in any way procure or consent to the employment of such minor—

1. As a rope or wire walker, dancer, gymnast, contortionist, rider, or acrobat;

2. In begging, receiving alms, or in any mendicant occupation;

3. In any indecent or immoral exhibition or practice;

4. In any practice or exhibition dangerous or injurious to life, limb, health, or morals;

5. In labor of any kind outside of the family of his residence before the hour of 7 in the morning or after 6 in the evening; or

6. As a messenger for delivering letters, telegrams, packages, or bundles to any known house of prostitution or assignation—

Shall be guilty of a misdemeanor, and be punished by a fine of not less than \$50, or by imprisonment in the county jail for not less than thirty days, or by both.—R. L. 1905, § 4939.

§ 1118. **Cruelty towards children.**—Every person who shall torture, torment, or cruelly or unlawfully punish any child under the age of sixteen years, or shall compel any such child to labor more than ten hours in any day in a factory, workshop, or mercantile or manufacturing business, or who shall commit any act of cruelty toward such child, shall be guilty of a misdemeanor.—R. L. 1905, § 4940.

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§ 1119. **Unlawful confinement of idiots, etc.**—Every person who shall confine an idiot, lunatic, or insane person in any other manner or in any other place than as authorized by law, or who shall be guilty of harsh, cruel, or unkind treatment of, or neglect of duty toward, any idiot, lunatic, or insane person under confinement, whether lawfully or unlawfully confined, shall be guilty of a misdemeanor.—R. L. 1905, § 4941.

III.—Abortion, Etc.

§ 1120. **Abortion, how punished.**—Every person who, with intent thereby to produce the miscarriage of a woman, unless the same is necessary to preserve her life, or that of the child with which she is pregnant, shall—

1. Prescribe, supply or administer to a woman, whether pregnant or not, or advise or cause her to take, any medicine, drug, or substance; or,

2. Shall use, or cause to be used, any instrument or other means—

Shall be guilty of abortion, and punished by imprisonment in the State Prison for not more than four years, or in a county jail for not more than one year.—R. L. 1905, § 4942.

§ 1121. **Pregnant woman attempting abortion.**—A pregnant woman who takes any medicine, drug, or substance, or uses or submits to the use of any instrument or other means, with intent thereby to produce her own miscarriage, unless the same is necessary to preserve her life, or that of the child whereof she is pregnant, shall be punished by imprisonment in the State Prison for not less than one nor more than four years.—R. L. 1905, § 4943.

§ 1122. **Selling drugs, etc.**—Whoever shall manufacture, give, or sell an instrument, drug, or medicine, or any other substance, with intent that the same may be unlawfully used in producing the miscarriage of a woman, shall be guilty of a felony.—R. L. 1905, § 4944.

§ 1123. **Evidence.**—In any prosecution for abortion or attempting abortion, no person shall be excused from testifying as a witness on the ground that his testimony would tend to criminate himself.—R. L. 1905, § 4945.

§ 1124. **Concealing birth—Second offense.**—Every person who shall endeavor to conceal the birth of a child by any disposition of its dead body, whether the child died before or after its birth, shall be guilty of a misdemeanor; and every woman, who, having been convicted of endeavoring to conceal the still birth of any issue of her body, which if born alive would be a bastard, or the death of such issue under the age of two years, shall, subsequent to such conviction, endeavor to conceal any such birth or death, shall be punished by imprisonment in the State Prison for not more than five years.—R. L. 1905, § 4946.

IV.—Bigamy, Adultery, Etc.

§ 1125. **Bigamy defined—How punished—Exceptions.**—Every person who, having a husband or wife living, marries another person, or continues to cohabit with such second husband or wife in this state, shall be guilty of bigamy, and be punished by imprisonment in the State Prison for not more than five years, provided that this section shall not extend—

1. To a person whose former husband or wife has been absent for five years successively then last past, without being known to him or her to be living, and believed to be dead; or

2. To a person whose former marriage has been pronounced void, or annulled or dissolved, by a court of competent jurisdiction.—R. L. 1905, § 4947.

§ 1126. **Punishment of consort.**—Every person who knowingly enters into a marriage with another which is prohibited to the latter by the preceding section shall be punished by imprisonment in the State Prison for not more than five years, or by a fine of not more than \$1,000 or by both.—R. L. 1905, § 4948.

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§ 1127. **Incest.**—Whenever any male and female persons, nearer of kin to each other than first cousins, computing by the rules of the civil law, whether of the half or the whole blood, shall have sexual intercourse together, each shall be guilty of incest, and be punished by imprisonment in the State Prison for not more than ten years.—R. L. 1905, § 4949.

§ 1128. **Crime against nature.**—Every person who shall commit the crime against nature with mankind or beast, or attempt sexual intercourse with a dead body, shall be punished by imprisonment in the State Prison for not more than twenty years, and any sexual penetration, however slight shall be sufficient to complete the crime.—R. L. 1905, § 4950, as amended G. L. 1909, Chap. 270.

§ 1129. **Adultery, how punished.**—Whenever any married woman shall have sexual intercourse with a man, other than her husband, whether married or not, both shall be guilty of adultery, and punished by imprisonment in the State Prison for not more than two years, or by a fine of not more than \$300; but no prosecution shall be commenced except on complaint of the husband or the wife, save when such husband or wife shall be insane, nor after one year from the commission of the offense.—R. L. 1905, § 4951.

§ 1130. **Fornication.**—Whenever any man and a single woman cohabit with each other, both shall be guilty of fornication, and punished by imprisonment in the county jail for not more than ninety days, or by a fine of not more than \$100.—R. L. 1905, § 4952.

§ 1131. **Exposure of person—Public indecency.**—Every person who shall willfully and lewdly expose his person, or the private parts thereof, in any public place, or in any place where others are present, or shall procure another to so expose himself, and every person who shall be guilty of any open or gross lewdness or lascivious behavior, or any public indecency other than hereinbefore specified, shall be guilty of a misdemeanor, and punished by a fine of not less than \$5, or by imprisonment in a county jail for not less than ten days.—R. L. 1905, § 4953.

§ 1132. **Obscene literature—Sale, etc.**—Every person who—

1. Shall sell, lend, give away, or offer to give away, show, have in his possession with intent to sell, give away, show, advertise, or otherwise offer for loan, gift, sale, or distribution, any obscene or indecent book, magazine, pamphlet, newspaper, story paper, writing, picture, drawing, photograph or any article or instrument of indecent or immoral character; or who shall design, copy, draw, photograph, print, utter, publish or otherwise prepare such a book, picture, drawing, paper, or other article; or write or print, or cause to be written or printed, a circular, advertisement, or notice of any kind, or give oral information, stating when, where, how or of whom, or by what means such an indecent or obscene article or thing can be purchased or obtained; or

2. Shall sell, lend, give away, show, or have in his possession with intent to sell, lend, give away, show, advertise, or otherwise offer for loan, gift, sale, or distribution to any minor, any book, pamphlet, magazine, newspaper or other printed paper devoted to the publication, or largely made up, of criminal news, police reports, accounts of criminal deeds, or pictures and stories of deeds of bloodshed, lust, or crime; or

3. Shall exhibit upon any public road, street, or other place within view of any minor any of the books, papers, or other things hereinbefore enumerated; or

4. Shall hire, use, or employ any minor to sell or give away or in any manner distribute, or shall permit any minor in his custody or control to sell, give away, or in any manner distribute, any of the articles hereinbefore mentioned—

Shall be guilty of a gross misdemeanor, and be punished by imprisonment in the county jail for not more than one year nor less than ninety days, or by a fine of not less than \$100 nor more than \$500, or by both.—R. L. 1905, § 4954.

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§ 1133. **Indecent articles, etc.**—Every person who shall sell, lend, or give away, or in any manner exhibit, or offer to sell, lend, or give away, or have in his possession with intent to sell, lend, give away, or advertise or offer for sale, loan, or distribution, any instrument or article, or any drug or medicine, for the prevention of conception or for causing unlawful abortion; or shall write or print, or cause to be written or printed, a card, circular, pamphlet, advertisement, or notice of any kind, or shall give oral information, stating when, where, how, of whom, or by what means such article or medicine can be obtained or who manufactures it—shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not more than one year, or by a fine of not more than \$500, or by both.—R. L. 1905, § 4955.

§ 1134. **Mailing and carrying obscene matter.**—Every person who shall deposit or cause to be deposited in any post office in the state, or place in charge of any express company or other common carrier or person for transportation, any of the articles or things specified in the last two sections, or any circular, book, pamphlet, advertisement, or notice relating thereto, with the intent of having the same conveyed by mail, express, or in any other manner; or who shall knowingly or willfully receive the same with intent to carry or convey it, or shall knowingly carry or convey the same by express, or in any other manner except by United States mail—shall be guilty of a misdemeanor. But the provisions of this and the preceding section shall not be construed to apply to an article or instrument used by physicians lawfully practicing, or by their direction or prescription, for the cure or prevention of disease.—R. L. 1905, § 4956.

§ 1135. **Search warrant—Destruction of property.**—Every municipal court and justice of the peace, upon complaint under oath that any person has in his possession or under his control any of the obscene books, papers or other matter specified in the last three sections, shall issue a warrant directed to the sheriff or any constable of the county, therein directing him to search for, seize, and take possession of such obscene matter; and upon conviction of the person in whose possession the same shall be found, shall cause such matter to be destroyed, and the fact to be entered upon the records of the court.—R. L. 1905, § 4957.

§ 1136. **Keeper of disorderly resort.**—Every person who shall keep a house of ill fame or assignation, or a house, tent, vehicle, resort, or place of any description for persons to visit for unlawful sexual intercourse, or for any other lewd, obscene, or indecent purpose, shall be guilty of felony. And every person who shall keep a disorderly house, or any place of public resort by which the peace, comfort, or decency of a neighborhood is habitually disturbed, or who, as agent or owner, lets a building or any portion thereof, knowing that it is intended to be used for any purpose specified in this section, or who permits a building or any portion thereof to be used for any of the aforesaid purposes, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4958.

V.—Lotteries.

§ 1137. **Defined—A nuisance—Drawing—How punished.**—A lottery is a scheme for the distribution of property by chance, among persons who have paid or agree to pay a valuable consideration for the chance whether it shall be called a lottery, raffle, gift enterprise, or by any other name, and is hereby declared unlawful and a public nuisance.

Every person who shall contrive, propose, or draw a lottery, or shall assist in contriving, proposing, or drawing a lottery, shall be punished by imprisonment in the State Prison for not more than two years, or by a fine of not more than \$1,000, or by both.—R. L. 1905, § 4959.

§ 1138. **Selling tickets, advertising.**—Every person who shall sell, give, or in any way whatever furnish or transfer to or for another a ticket, chance, share, or interest, or any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest, in or dependent upon the event of a lottery, to be drawn within or without the

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state; or who, by writing, printing, circular, or letter, or in any other way, shall advertise or publish an account of a lottery, in or out of the state, stating how, when, or where the same is to be or has been drawn, or what are the prizes therein, or any of them, or the price of a ticket, or any share or interest therein, or where or how it may be obtained—shall be guilty of a misdemeanor.—R. L. 1905, § 4960.

§ 1139. **Disposal of property by lottery—Keeping office—Letting Building.**—Every person who shall offer for sale or distribution in any way real or personal property, or any interest therein, to be determined by lot or chance dependent upon the drawing of a lottery in or out of the state; or who shall sell, furnish, or procure, or cause to be sold, furnished, or procured in any manner a chance or share or any interest in property offered for sale or distribution in violation of this subdivision, or a ticket or other evidence of such chance, share, or interest; or who shall open, set up, or keep by himself or another, an office or place for registering the numbers of tickets in a lottery in or out of the state, or for making, receiving, or registering any bets or stakes for the drawing or result of such lottery; or who shall advertise or in any way publish any account of an opening, setting up, or keeping of such an office or place; or who shall let or permit to be used any building or portion thereof, knowing that it is intended to be used for any of the purposes specified in this subdivision—shall be guilty of a misdemeanor.—R. L. 1905, § 4961.

§ 1140. **Insuring lottery tickets—Advertising offers to insure.**—Every person who shall insure, or receive any consideration for insuring, for or against the drawing of a ticket, share, or interest in a lottery, or of a number of such ticket, share, or interest, or who shall receive any valuable consideration upon an agreement to pay money, or deliver property, in the event that a ticket, share, or interest, or a number of such a ticket, share, or interest, in a lottery shall prove fortunate or unfortunate, or shall be drawn or not drawn in a particular way or in a particular order; or who shall promise or agree to offer to pay money or deliver property, or do or forbear to do any act, for the benefit of any person, with or without consideration, upon any accident or contingency dependent on the drawing thereof, or of any number or ticket therein; or who, by writing, printing, circular, or letter, or in any other way, advertises or publishes an offer, notice, or proposition in violation of the provisions of this section, shall be guilty of a misdemeanor.—R. L. 1905, § 4962.

§ 1141. **Lotteries out of state—Advertisements by non-residents.**—The provisions of this subdivision are applicable to lotteries drawn or to be drawn out of the state, whether authorized or not by the laws of the state where they are drawn or to be drawn, in the same manner as to those in the state, and every provision of law relating to advertising lotteries or offers to insure lottery tickets shall be applicable whenever the advertisement was published, or the letter or circular sent or delivered, through or in the state, though the person causing or procuring the same to be published, sent, or delivered was out of the state at the time of so doing.—R. L. 1905, § 4963.

VI.—Gaming.

§ 1142. **Gambling prohibited—How punished.**—Gambling with cards, dice, gambling tables, or any other gambling device whatever is hereby prohibited. Every person who deals cards at the game called "Faro," "Pharo," or "Forty-Eight," whether the same is dealt with fifty-two or any other number of cards, and every person who shall keep any gambling device whatsoever designed to be used in gambling, shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than \$200, or by both; and every person who shall bet any money or other property at or upon a gaming table, game, or device shall be punished by a fine of not less than \$5 nor more than \$20.—R. L. 1905, § 4964.

§ 1143. **Gambling devices on premises.**—Every person who shall suffer any gaming table, faro bank, or gambling device to be set up or

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used for the purpose of gambling in any house, building, steamboat, raft, keelboat, or boom, lot, yard, or garden, owned, occupied or controlled by him, shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than \$200, or by both.—R. L. 1905, § 4965.

§ 1144. **Evidence—Testimony of player.**—No person shall be excused from testifying touching an offense committed by another against any provision of this subdivision relating to gambling, by reason of his having bet or played at the prohibited game or gambling device.—R. L. 1905, § 4966.

§ 1145. **Recovery of money, etc., lost.**—Every person who, by playing at cards, dice, or other game, or by betting on the hands or sides of such as are gambling, shall lose to any person so playing or betting any sum of money or any goods, and pays or delivers the same, or any part thereof, to the winner, may sue for and recover such money by a civil action before any court of competent jurisdiction.—R. L. 1905, § 4967.

§ 1146. **Notes, etc., for gambling debt void.**—Every note, bill, bond, mortgage, or other security or conveyance in which the whole or any part of the consideration shall be for any money or goods won by gambling or playing at cards, dice, or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such gambling or betting, or lent and advanced for any gambling or betting to any person so gambling or betting, shall be void and of no effect as between the parties to the same, and as to all persons except such as hold or claim under them in good faith, without notice of the illegality of the consideration of such contract or conveyance.—R. L. 1905, § 4968.

§ 1147. **Swindling by cards, etc.—How punished.**—Every person who, by means of three-card monte, so called, or of any other form or device, sleight of hand, or other means, by use of cards or instruments of like character, or by any other instrument, trick, or device, obtains from another person any money or other property of any description, shall be deemed guilty of the crime of swindling, and be punished by imprisonment in the State Prison for not less than two nor more than five years, or by a fine of not less than \$200 nor more than \$2,000; and every person aiding, encouraging, advising, or confederating with, or knowingly harboring or concealing, any such person, or in any manner being accessory to the commission of the above-described offense, and all persons who shall confederate together for the purpose of playing such games, shall be deemed principals therein and punished as such.—R. L. 1905, § 4969.

§ 1148. **Arrests.**—Every person may, and every conductor or other employee on any railway car or train, captain, clerk, or other employee of any boat, station agent at any depot, officer of any fair or fair ground, proprietor or employee of any place of public resort, with or without warrant, shall arrest any person found in the act of committing any of the offenses mentioned in the preceding section, or any person whom he has good reason to believe has been guilty of any such offense, and take him before a magistrate or court having jurisdiction, and make written complaint under oath against him. Every person so making such arrest shall have the same power and authority in all respects as an officer with a warrant, including the power to summon assistance, and shall also arrest the person injured by reason of such offense, and take him before such magistrate or court, who shall require him to give security for his appearance as a witness on trial of the case; and he shall receive for such services the same compensation as is provided for sheriffs.—R. L. 1905, § 4970.

§ 1149. **Swindlers ejected, when—Law to be posted.**—Every conductor, captain, hotel or saloon keeper, proprietor or manager of any public conveyance or place of public resort, and the officer of any fair or fair grounds, shall eject from his car, train, boat, hotel, saloon, public conveyance, fair grounds, or place of public resort any person known to him,

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or whom he has good reason to believe, to be a three-card monte man, or who offers to wager or bet money or other valuable thing upon what is commonly known as "three-card monte," or on any trick or game with cards or other gaming device, and for such ejection no action for damages shall be maintained; and every person operating any public conveyance by which passengers are carried shall keep posted in such conveyance a copy of this subdivision.—R. L. 1905, § 4971.

§ 1150. **Neglect of conductor, etc., to arrest.**—Every conductor of a railway train, every station agent, captain of any steamboat, proprietor of any public conveyance, officer of any fair or fair grounds or place of public resort, every hotel or saloon keeper, or any agent or employee thereof, who shall fail, neglect, or refuse to perform such duty, or who shall knowingly suffer or permit any violation of any provision of this subdivision, shall be guilty of a misdemeanor.—R. L. 1905, § 4972.

§ 1151. **Evidence of accomplice.**—Any person may be convicted for violation of this subdivision on his own confession out of court, or upon the testimony of an accomplice.—R. L. 1905, § 4973.

VII.—Pawnbrokers.

§ 1152. **License—Refusal to exhibit stolen goods—Selling before time of redemption.**—Every person who shall carry on the business of a pawnbroker by receiving goods in pledge for loans at a rate of interest above that allowed by law, except by virtue of a license from a municipal corporation or other authority empowered to grant such license; every person carrying on the business of a pawnbroker or junk dealer who, having received any goods which have been embezzled or stolen, refuses or omits to exhibit them upon demand, during the usual business hours, to the owner thereof, or his agent authorized to demand an inspection thereof, or to any public officer; and every pawnbroker who shall sell any article, received by him in pledge, before the time to redeem the same has expired, or who wilfully refuses to disclose the name of the purchaser, or the price received by him for any article so received by him in pledge and subsequently sold—shall be guilty of a misdemeanor.—R. L. 1905, § 4974.

VIII.—Rights of Sepulture.

§ 1153. **Dissection—When permitted.**—The right to dissect the dead body of a human being shall be limited to cases especially provided by statute, or by the direction or will of the deceased; cases where a coroner is authorized to hold an inquest upon the body, and then only so far as he may authorize dissection; and cases where the husband, wife, or next of kin, charged by law with the duty of burial, shall authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized. Every person who shall make, cause, or procure to be made any dissection of the body of a human being, except as hereinbefore provided, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4975.

§ 1154. **Burial or cremation.**—Except in cases of dissection provided for in the preceding section, and where a dead body shall rightfully be carried through or removed from the state for the purpose of burial elsewhere, every dead body of a human being lying within this state, and the remains of any dissected body after dissection, shall be decently buried, or cremated, within a reasonable time after death.—R. L. 1905, § 4976.

§ 1155. **Opening grave—Stealing body—Receiving same.**—Every person who shall remove the dead body of a human being, or any part thereof, from a grave, vault, or other place where the same has been buried, or deposited awaiting burial or cremation, without authority of law, with intent to sell the same, or for the purpose of procuring a reward for its return, or for dissection, or from malice or wantonness, shall be punished by imprisonment in the State Prison for not more than five years, or by a fine of not more than \$1,000, or by both. Every person who shall purchase or receive, except for burial or cremation, any such dead body, or any part thereof, knowing that the same has been removed contrary to the

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foregoing provisions, shall be punished by imprisonment in the State Prison for not more than three years. Every person who shall open a grave or other place of interment, temporary or otherwise, or a building where such dead body is deposited, while awaiting burial or cremation, with intent to remove such body, or any part thereof, for the purpose of selling or demanding money for the same, for dissection, from malice or wantonness, or with intent to steal or remove the coffin, or any part thereof, or anything attached thereto, or any vestment or other article interred or intended to be interred with the body, shall be punished by imprisonment in the State Prison for not more than two years, or by a fine of not more than \$250, or by both.—R. L. 1905, § 4977.

§ 1156. **Interfering with dead body or funeral.**—Every person who shall arrest or attach the dead body of a human being upon a debt or demand, or shall detain or claim to detain it for any debt or demand, or upon any pretended lien or charge, or who, without authority of law, shall obstruct or detain a person engaged in carrying or accompanying the dead body of a human being to a place of burial or cremation, shall be guilty of a misdemeanor.—R. L. 1905, § 4978.

§ 1157. **Opening road through cemetery.**—Every person who shall make or open any road, or construct any railway, turnpike, canal, or other public easement, over, through, in, or upon such part of any inclosure as may be used for the burial of the dead, without authority of law or the consent of the owner thereof, shall be punished by fine not exceeding \$300.—R. L. 1905, § 4979.

IX.—Subjects for Dissection.

§ 1158. **Delivery of bodies to medical schools.**—Except as otherwise provided in the following section, the bodies of all persons dying within the state, and not claimed for burial within 36 hours after death, shall be delivered, by the person in charge thereof, for purposes of anatomical study. The deans of the medical colleges of the state shall appoint a committee to receive such bodies, which committee shall apportion the same to the several colleges according to the numbers of their students. Any body so received shall be surrendered on demand of a relative entitled to its possession. The remains of any such body, after it has answered the purposes aforesaid, shall be decently buried in a public cemetery, and the expense of transporting and burying such body shall be borne by the college receiving the same.—R. L. 1905, § 2152.

§ 1159. **What bodies excepted.**—No body shall be so delivered:

1. After it has been regularly interred;
2. After it has been claimed for burial or cremation by any person entitled to receive it for such purpose;
3. Without the consent of all known relatives of the person deceased;
4. If such person, in his last sickness, requested that his remains be buried;
5. If he died while detained as a witness, or under suspicion of crime; or
6. If by any provision of law another disposition thereof be required.

—R. L. 1905, § 2153.

§ 1160. **Violations—Penalties.**—Every official or other person in possession or control of any such body shall forthwith notify the committee and deliver the same according to its request. If he fail to do either within a reasonable time, he shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of twenty-five dollars. Every person who shall use any such body for a purpose other than that contemplated herein, or who shall remove it from the state, or in any manner traffic therein, or refuse to deliver the same upon proper demand, shall be guilty of a gross misdemeanor.—R. L. 1905, § 2154.

X.—Sabbath Breaking, Etc.

§ 1161. **Definitions.**—The law prohibits the doing on the first day of the week of the certain acts in the next section specified, which are seri-

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ous interruptions of the repose and religious liberty of the community, and the doing of any said acts on that day shall constitute Sabbath breaking. Under the term "day" as used in this and the next section is included all the time from midnight to midnight.—R. L. 1905, § 4980.

§ 1162. **Things prohibited—Exceptions.**—All hunting, shooting, fishing, playing, horse racing, gaming and other public sports, exercises, and shows; all noises disturbing the peace of the day; all trades, manufactures, and mechanical employment, except works of necessity performed in an orderly manner so as not to interfere with the repose and religious liberty of the community; all public selling or offering for sale of property, and all other labor except works of necessity and charity are prohibited on the Sabbath day: Provided, that meals to be served upon the premises or elsewhere by caterers, prepared tobacco in places other than where intoxicating liquors are kept for sale, fruits, confectionery, newspapers, drugs, medicines, and surgical appliances may be sold in a quiet and orderly manner. In works of necessity or charity is included whatever is needful during the day for good order, health or comfort of the community; but keeping open a barber shop, or shaving and hair cutting shall not be deemed works of necessity or charity, and nothing in this section shall be construed to permit the selling of uncooked meats, groceries, clothing, boots, or shoes.

Provided, however, that the game of base ball when conducted in a quiet and orderly manner so as not to interfere with the peace, repose and comfort of the community, may be played between the hours of one p. m. and six p. m. on the Sabbath day.—R. L. 1905, § 4981, as amended, G. L. 1909, Chap. 267.

§ 1163. **Punishment.**—Every person who breaks the Sabbath shall be guilty of a misdemeanor, and punished by a fine of not less than \$1 nor more than \$10, or by imprisonment in the county jail for not more than five days; but it shall be a sufficient defense to a prosecution for Sabbath breaking that the defendant uniformly keeps another day of the week as holy time, and that the act complained of was done in such manner as not to disturb others in the observance of the Sabbath.—R. L. 1905, § 4982.

§ 1164. **Service of process on the Sabbath prohibited.**—Every service of legal process upon the Sabbath day, except in case of a breach or apprehended breach of the peace, or when sued out for the apprehension of a person charged with crime, or where such service is expressly authorized by statute, is hereby prohibited.—R. L. 1905, § 4983.

§ 1165. **Preventing religious act.**—Every person who, by threats or violence, shall wilfully prevent another person performing any lawful act enjoined upon or recommended to him by the religion which he professes, shall be guilty of a misdemeanor.—R. L. 1905, § 4984.

§ 1166. **Disturbing religious meeting.**—Every person who shall wilfully disturb, interrupt, or disquiet any assemblage of people met for religious worship—

1. By noisy, rude, or indecent behavior, profane discourse, either within the place where such meeting is held or so near it as to disturb the order and solemnity of the meeting;

2. By exhibiting shows or plays, or promoting, within one mile of the place where such meeting is held, any racing of animals, or gaming of any description;

3. By obstructing in any manner, without authority of law, within the like distance, free passage along a highway to the place of such meeting; or

4. By maliciously cutting or otherwise injuring or destroying any harness, conveyance, tent, or other property belonging to any person in attendance upon any such meeting—

Shall be guilty of a misdemeanor; but no prosecution therefor shall be sustained unless commenced within sixty days after the commission of the offense.—R. L. 1905, § 4985.

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§ 1167. **Trading near camp meeting—Prohibition—Exception.**—No person shall keep any shop, tent, booth, or carriage of any kind for the sale of, or sell, furnish, or expose for sale, any intoxicating liquors, or other goods or merchandise, within two miles of any public assembly, camp or grove meeting, convened for the purpose of religious worship. But this shall not be so construed as to prevent any person from continuing business where previously located, or from selling such liquors where he had been licensed to sell before the appointment of such meeting. Every person who shall violate any provision of this section shall be punished by a fine not exceeding \$30, or by imprisonment in a county jail for not more than thirty days, or by both.—R. L. 1905, § 4986.

TITLE VII.—OFFENSES AGAINST PUBLIC HEALTH AND SAFETY.

§ 1168. **Public nuisance defined.**—A public nuisance is a crime against the order and economy of the state, and consists in unlawfully doing an act or omitting to perform a duty, which act, or omission—

1. Shall annoy, injure, or endanger the safety, health, comfort, or repose of any considerable number of persons;

2. Shall offend public decency;

3. Shall unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for passage, a lake, navigable river, bay, stream, canal, or basin, or a public park, square, street, alley, or highway; or

4. Shall in any way render a considerable number of persons insecure in life or the use of property.—R. L. 1905, § 4987.

§ 1169. **Maintaining or permitting building as a nuisance.**—Every person who shall commit or maintain a public nuisance, for which no special punishment is prescribed; or who shall wilfully omit or refuse to perform any legal duty relating to the removal of such nuisance; and every person who shall let, or permit to be used, any building or portion thereof, knowing that it is intended to be used, for committing or maintaining any such nuisance—shall be guilty of a misdemeanor.—R. L. 1905, § 4988.

§ 1170. **Keeping gunpowder unlawfully.**—Every person who shall make or keep gunpowder, nitroglycerine, or other explosive in combustible material in a city or village, or carry it through the streets thereof in a quantity or manner prohibited by law or by ordinance of such municipality, shall be guilty of a misdemeanor. And every person who by the careless, negligent, or unauthorized use or management of gunpowder or other explosive substance shall injure, or cause injury to, the person or property of another, shall be punished by imprisonment in the county jail for not more than one year.—R. L. 1905, § 4989.

§ 1171. **Obstructing health officer.**—Every person who shall wilfully oppose or obstruct a health officer or physician charged with the enforcement of the health laws, in performing any legal duty, shall be guilty of a misdemeanor.—R. L. 1905, § 4990.

§ 1172. **Wilful violation of health laws.**—Every person who shall wilfully violate any provision of the health laws, the punishment for which is not specially provided for therein, shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not more than \$2,000, or by both.—R. L. 1905, § 4991.

§ 1173. **Gasoline, benzine, and kerosene cans.**—Every manufacturer or vendor who shall sell or cause to be sold, place or cause to be placed, any gasoline or benzine, in quantities of more than one pint and less than six gallons, in any receptacle except one of a bright red color and tagged and labelled in large plain letters with the name of the contents, or who shall sell or cause to be sold, place or cause to be placed, kerosene or other illuminating oils in the same quantities in a receptacle of a red color, shall be guilty of a misdemeanor, and punished by a fine of not more than \$100.—R. L. 1905, § 4992.

§ 1174. **Wood alcohol, governing sale of.**—No person, by himself, his servant or agent, or as the servant or agent of another person or persons, shall sell, exchange, deliver or have in his custody or possession with

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intent to sell, exchange or deliver, or expose or offer for sale, exchange or delivery, any wood alcohol, or substance commonly known as wood alcohol, unless each package, bottle, cask, can or receptacle containing the said wood alcohol shall be plainly marked, stamped, branded or labeled on the outside and face of each said package, bottle, cask, can or receptacle of the capacity of less than one gallon, in legible type not smaller than large primer, and on the outside and face of each package, bottle, cask, can or receptacle of the capacity of one gallon or more, in legible letters of not less than one inch in length, the letters and words "wood naphtha," "poison."—G. L. 1905, Chap. 35, § 1.

§ 1175. **Same—Penalty for violation.**—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and be punished by a fine of not less than fifty dollars and not more than one hundred dollars, for each and every offense, or by imprisonment in the county jail for not less than thirty days, or more than ninety (90) days.—G. L. 1905, Chap. 35, § 2.

§ 1176. **Cocaine—Regulating the sale—Veterinarian given right to prescribe cocaine and preparations.**—That no person shall sell or give away any cocaine, hydrochlorate, or any salts or compound of cocaine, or preparation containing cocaine, except upon the written prescription of a physician or dentist, or veterinarian, licensed under the laws of the state.

No prescription containing cocaine shall be filled more than once and each shall have written plainly upon it the name and address of the patient, or owner of animal, and be filed and preserved by the pharmacist, who shall not give a copy thereof to the patient or owner of animal.

This section shall not be so construed as to apply to sales at wholesale, in original packages, by any manufacturer or wholesale dealer, to a retail druggist, licensed physician or dentist or veterinarian when such vendor shall have affixed to each receptacle containing any such drug a label in the English language specifically setting forth the proportion of cocaine contained therein.—G. L. 1909, Chap. 85, § 1.

§ 1177. **Penalty for violation.**—Any person who shall sell or give away any of the articles mentioned in the preceding section in violation of this act, and any person who shall prescribe any of such articles to any one addicted to the habitual use of cocaine or any preparation or compound thereof in any form shall be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not less than 30 days nor more than 90 days, and if the person so offending shall be a licensed physician, dentist, veterinarian, pharmacist or assistant pharmacist, in addition to the penalty above described, such offender's license shall be revoked.—G. L. 1909, Chap. 85, § 2.

§ 1178. **County attorney to prosecute.**—Upon complaint being made of the violation of the provisions of this act, the county attorney of the county where the offense is alleged to have been committed shall prosecute such complaint and to that end is hereby authorized to examine the books of any manufacturer or wholesale dealer within the state for the purpose of tracing the sale of any of the articles herein mentioned.—G. L. 1909, Chap. 85, § 3.

§ 1179. **Disposition of fines.**—All fines collected under the provisions under this act shall inure to the Minnesota State Board of Pharmacy.—G. L. 1909, Chap. 85, § 4.

§ 1180. **Prohibits careless distribution of drugs.**—That no person, or persons, either directly or indirectly, by agent or otherwise, shall scatter, distribute or give away any samples of any medicine, drugs or medical compounds, salve or liniment of any kind unless the same is delivered into the hands of an adult person, or mailed to such persons through the regular mail service.—G. L. 1905, Chap. 33, § 1.

§ 1181. **Same—Penalty.**—Any person violating any provision of this act shall be guilty of a misdemeanor, and upon conviction thereof shall

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be punished by a fine not to exceed one hundred (\$100) dollars, or by imprisonment in the county jail for a term not to exceed ninety days.—G. L. 1905, Chap. 33, § 2.

§ 1182. **Adulteration or imitation of foods, etc.**—Every person who, with intent that the same may be sold as unadulterated or undiluted, shall adulterate or dilute wine, milk, distilled spirits, or malt liquors, or any drug, medicine, food, or drink for man or beast; or shall offer for sale or sell the same as unadulterated or undiluted, or without disclosing to or informing the purchaser that the same has been adulterated or diluted; or shall manufacture, sell, expose, or offer for sale, as such article of food or drink, any substance in imitation thereof, without disclosing the imitation by a suitable and plainly visible mark or brand; or with intent that the same may be used as food, drink or medicine, shall sell, offer or expose for sale, any article whatsoever which to his knowledge has become spoiled, tainted, or for any cause unfit to be used as food, drink, or medicine, where special provision has not otherwise been made by statute for its punishment, shall be guilty of a misdemeanor, and punished by a fine of not less than \$25, or by imprisonment in the county jail for not less than 30 days.—R. L. 1905, § 4993.

§ 1183. **Sale of unwholesome poultry, etc.**—Every person who shall offer or expose for sale at retail, for human food, at any public market, store, shop, or house, or in or about any street or other public place, any domestic or wild fowls, or any slaughtered rabbits, squirrels, or other small animals, wild or tame, unless the entrails, crops, and other offensive parts are properly drawn and removed, shall be guilty of a misdemeanor.—R. L. 1905, § 4994.

§ 1184. **Enforcement of laws relating to sale of foods, etc.**—Power given to dairy and food commission—Notice from commission—Duty of common carriers—Misdemeanor.—For the proper enforcement of the laws of this state, already or hereafter enacted, which may be designed to prevent, regulate or punish the sale or use of commodities for human consumption which are deleterious to health and not true in name, the dairy and food commissioner, by himself, or employees of his department in addition to having the authority and powers otherwise conferred by law is authorized and empowered to have and take access to any and all railroad cars of every sort or nature transported or being within this state, all railroad stations, storage houses, warehouses or express offices, or other places wherein there may at any time be commodities shipped within this state from without designed for human consumption whether such commodities have been sold or given away without the state, provided such sale or gift was or is with the intent that such commodities be delivered, had or used within the state, and the dairy and food commissioner by himself or the employees of his department shall have the same power and authority to open any package, can or vessel, so shipped within this state from without, which contains or which he has reason to believe contains any such commodity to inspect the contents thereof and to take samples therefrom for analysis, all after the same manner and with the same procedure as obtains by law in reference to similar commodities manufactured, sold or exposed for sale within the state. If it shall appear that any such commodity or commodities so shipped within this state from without is of a character or composition, the manufacture, sale or exposing for sale of which within the state is forbidden by any laws then in force as deleterious to health and not true in name, the dairy and food commissioner shall have the same rights and remedies, and shall enforce such rights and remedies against such commodity or commodities in the same manner as in the cases of similar commodities when manufactured, sold or exposed for sale within the state. On receiving notice from the commissioner, or any authorized employee of his department that he desires to inspect the contents of any such package, can or vessel, containing, as he believes, any such commodity, it shall be the duty of any common carrier, or warehouseman or their employees,

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or other person having the same in his possession, or under his control to withhold the same from delivery within this state, such time as may be reasonably necessary for the inspection and analysis thereof. It is further made the duty of all common carriers and warehousemen and employees thereof to render the commissioner and his employees all the assistance in their power when so required to effectuate the purpose of this act. In case such inspection or analysis of any such commodity shall disclose therein ingredients deleterious to health and not true in name, as defined by any law of this state, such common carrier or warehousemen, or employees thereof, shall on demand disclose to the commissioner the names and addresses of the consignor and consignee of the package, can or vessel containing the same and the commissioner shall, before proceeding further, as against such commodity, notify such consignor and consignee in writing at their respective addresses as so disclosed of the results of such inspection and analysis. Any failure on the part of any common carrier, warehouseman, storage man, or employee thereof, to do or observe the provisions hereof shall be a misdemeanor.—G. L. 1905, Chap. 158.

§ 1185. **Protection of meat, etc.**—Every dealer in slaughtered fresh meats, fish, fowl, or game for human food, at wholesale or retail, at any established place or as a peddler, in the transportation of such food from place to place to customers, shall protect the same from dust, flies, and other vermin or substance which may injuriously affect it, by securely covering it while being so transported. Every violation of the foregoing provision shall be a misdemeanor, punishable by a fine of not less than \$10 or by imprisonment in the county jail for not less than 10 days.—R. L. 1905, § 4995.

§ 1186. **To prevent the sale or offering for sale, the veal of calves killed when less than four weeks old.**—No person, firm or corporation shall sell, offer or expose for sale, or have in possession with intent to sell, the veal of calves killed when less than four (4) weeks old.—G. L. 1905, Chap. 323, § 1.

§ 1187. **Same—Penalty.**—Any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall be fined not less than fifty (\$50) dollars nor more than one hundred (\$100) dollars, or by imprisonment for a period not to exceed ninety (90) days.—G. L. 1905, Chap. 323, § 2.

§ 1188. **Dangerous Weapons—Evidence.**—Every person who shall manufacture, or cause to be manufactured, sell, keep for sale, offer, or dispose of any instrument or weapon of the kind usually known as slung-shot, sand-club, or metal knuckles; or who, in any city in the state, without the written consent of a magistrate, shall sell or give any pistol or firearm to a person under the age of eighteen years; or who shall attempt to use against another, or with intent so to use, shall carry, conceal, or possess, any of the weapons hereinbefore specified, or any dagger, dirk, knife, pistol, or other dangerous weapon—shall be guilty of a gross misdemeanor. The possession by any person, other than a public officer, of any such weapon concealed or furtively carried on the person shall be presumptive evidence of carrying, concealing, or possessing with intent to use the same.—R. L. 1905, § 4996.

§ 1189. **Negligence in respect to fire.**—Every person who shall negligently or carelessly set on fire, or cause to be set on fire, any woods, prairie, or other combustible material, whether on his own land or not, by means whereof the property of another shall be endangered, or who shall negligently suffer any fire upon his own lands to extend beyond the limits thereof, shall be guilty of a misdemeanor.—R. L. 1905, § 4997.

§ 1190. **Regulation of hotels and lodging houses—Fire escapes.**—Every building or structure kept, used or maintained as, or advertised as, or held out to the public to be an inn, hotel or public lodging house, or place where sleeping accommodations are furnished to the public, whether with or without meals, shall have and be provided with, at each

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end of all halls from every story or floor higher than three stories, a suitable fire escape, reaching to within twelve (12) feet of the ground, and shall have and be provided with a way of egress to such fire escape, which way of egress and fire escape shall at all times be kept free and clear of any obstruction, and in good repair and ready and suitable for immediate use, or in lieu thereof in any and all buildings or structures kept, used or maintained as, or advertised as, or held out to the public to be an inn, hotel, public lodging house or place where sleeping accommodations are furnished to the public, whether with or without meals, there shall be supplied and kept at all times, in plain sight, and securely attached therein and thereto, in every bedroom or sleeping apartment on the second floor or above the second floor a manilla rope, with knots not more than 15 inches apart, at least five-eighths of an inch in diameter, and of sufficient strength to sustain a weight and strain of at least five hundred pounds; and every owner of any such building or structure in this section described, who shall fail to comply with the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than five dollars, nor more than twenty-five dollars, and in default of payment thereof shall be imprisoned for not less than ten days. Provided this act shall not apply to hotels or lodging houses which are already provided with ample outside iron fire escapes, or to fireproof buildings.—G. L. 1905, Chap. 343, § 1.

§ 1191. **Sleeping rooms provided with ropes—Misdemeanor, fine.**—Any person or persons keeping, maintaining, controlling or managing any building or structure kept, used or maintained as, or advertised as, or held out to the public to be an inn, hotel, public lodging house or place where sleeping accommodations are furnished to the public, whether with or without meals, shall supply and shall keep at all times, and in plain sight, and securely attached therein and thereto, in every bedroom, or sleeping apartment, on second floor or above second floor, a manilla rope, with knots not more than 15 inches apart, at least five-eighths of an inch in diameter, and of sufficient strength to sustain a weight and strain of at least five hundred pounds, and on failing to supply such ropes such person or persons shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not less than five dollars, nor more than twenty-five dollars, and in default of payment thereof, may be imprisoned not less than ten days.—G. L. 1905, Chap. 343, § 2.

§ 1192. **Applies to all hotels, etc., of 12 or more sleeping rooms.**—All inns, hotels, public lodging houses and places of twelve sleeping rooms or more where sleeping accommodations are furnished to the public, whether with or without meals, in the State of Minnesota shall be subject to the provisions of this act, except as already herein provided.—G. L. 1905, Chap. 343, § 3.

§ 1193. **Inspector, salary, duties, powers, etc.—To keep public record.**—For the purpose of carrying into effect the provisions of this act, the governor shall appoint an inspector at a salary of \$1,200 a year, who shall hold office for two years, and whose duty it shall be to visit and inspect annually, so far as possible, every building or structure kept, used or maintained as, or advertised as, or held out to the public to be an inn, a hotel, public lodging house or place where sleeping accommodations are furnished to the public, whether with or without meals. His necessary traveling expenses shall be paid on the filing of proper vouchers; said inspector is hereby granted police power to enter all hotels, inns, boarding or lodging houses in this state, at reasonable hours to inspect the sanitary condition thereof, and the fire escapes and their condition. He shall keep a complete set of books for public use and inspection showing the condition of said hotels, inns, or public lodging or boarding houses and places so inspected, together with the name or names of the owners, proprietors or managers thereof, and showing its sanitary condition, the number and condition of its fire escapes and any other in-

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formation for the betterment of the public service.—G. L. 1905, Chap. 343, § 4.

§ 1194. **Certificate of inspection to be posted**—County attorney, duties.—If the inspector shall find after examination of any inn, hotel, public lodging house or place where sleeping accommodations are furnished to the public, whether with or without meals, that this law has been fully complied with, and the inspection fee has been paid to the inspector, he shall issue a certificate to the person operating the same, and said certificate shall be kept posted up in a conspicuous place in said inspected building. It shall be the duty of the county attorney in the county where the building is located to bring and prosecute an action for the collection of the inspector's fees in cases where a payment of the same is refused.—G. L. 1905, Chap. 343, § 5.

§ 1195. **Falsely certifying, penalty.**—Any inspector who shall wilfully certify falsely regarding any building inspected by him, and who shall issue a certificate to any person operating any inn, hotel, public lodging house or place where sleeping accommodations are furnished to the public, whether with or without meals, when such person has not complied with the provisions of this act, shall on conviction thereof, be fined not less than fifty dollars, nor to exceed five hundred dollars, and may be imprisoned not to exceed one year in the State Prison, or both, at the discretion of the court, and removed from office.—G. L. 1905, Chap. 343, § 6.

§ 1196. **Inspector to have free access between 10 a. m. and 4 p. m.**—For the purpose of inspecting them as provided for in this act, the inspector shall, during the hours from 10 a. m. to 4 p. m., have free access to all halls in any hotel, inn, public lodging or boarding house or place where sleeping accommodations are furnished to the public, whether with or without meals. Any person or persons operating the same who shall refuse or hinder the inspector from entering any hall in any building that this law requires him to inspect shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$5 nor more than \$25, and in default of payment thereof shall be imprisoned for not less than ten days nor more than thirty days.—G. L. 1905, Chap. 343, § 7.

§ 1197. **Disposition of inspection fees.**—All fees collected by the inspector shall be retained by him, provided, however, any amount collected by him in excess of twelve hundred dollars per annum for his services and not exceeding five dollars a day for traveling expenses while actually engaged in inspecting buildings, shall be turned into the state treasury. The inspector shall be authorized to charge and collect the following fees for official inspections of buildings as herein provided, viz., building of twelve and less than thirty rooms, 50 cents; thirty and less than sixty rooms, \$1; sixty and less than one hundred rooms, \$1.50; one hundred and less than two hundred rooms, \$2, and all buildings two hundred rooms or more, \$3.—G. L. 1905, Chap. 343, § 8.

§ 1198. **Bond, deputies, report to state auditor.**—The inspector shall be authorized to appoint one or more deputy inspectors. The inspector and deputy inspector shall each give a bond in the sum of \$5,000. The inspector shall be required to report all transactions to the state auditor every three months, and also make a report at the end of each year.—G. L. 1905, Chap. 343, § 9.

§ 1199. **Inspection of halls and theaters**—Fire resistant curtain.—That the proscenium or curtain opening of all halls and theaters used for theatrical purposes and having a seating capacity of 600 or more in any city in the State of Minnesota shall have a fire resistant curtain of asbestos or some other approved incombustible material. Said curtain shall be properly constructed; shall be operated by proper mechanism and shall be raised at the commencement of each performance and lowered at the close of each performance.—G. L. 1905, Chap. 319, § 1.

§ 1200. **Appointment of inspector, duties, fees.**—That it shall be the duty of the common council of every city in the State of Minnesota, to.

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appoint some competent person as inspector of halls and theaters. It shall be his duty to inspect every hall and theater in his city at least once in each year to see that the provisions of section one (1) of this act have been complied with. He shall receive for each hall or theater inspected by him a fee of three (3) dollars to be paid by the owner or tenant of such hall or theater.—G. L. 1905, Chap. 319, § 2.

§ 1201. **Certificate of inspection.**—That the certificate of such inspector shall be prima facie evidence of the compliance with the provisions of this act for the space of one (1) year from the date thereof.—G. L. 1905, Chap. 319, § 3.

§ 1202. **Failure to comply with law—Penalty.**—The owner or owners, tenant or tenants of any hall or theater in any city of this state failing or neglecting to comply with the provisions of section one (1) of this act shall be liable to a fine of not more than three hundred (\$300) dollars and not less than fifty (\$50) dollars.—G. L. 1905, Chap. 319, § 4.

§ 1203. **Obstructing attempts to extinguish fires.**—Every person who, at the burning of any building, shall be guilty of any disobedience to lawful orders of a public officer or fireman, or of resistance to, or interference with, the lawful efforts of any fireman or company of firemen to extinguish the same, or of disorderly conduct likely to prevent the same from being extinguished, or who shall forbid, prevent, or dissuade others from assisting to extinguish the same, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4998.

§ 1204. **Engineers who cannot read.**—Every person who, as an officer of a corporation or otherwise, shall knowingly employ, as an engineer or engine driver to run locomotives or trains on any railway, a person who cannot read the time-tables and ordinary handwriting, and every person who, being unable to read the time-tables of the road and ordinary handwriting, shall act as an engineer or run a locomotive or train on any railway, shall be guilty of a gross misdemeanor.—R. L. 1905, § 4999.

§ 1205. **Intoxication of employees on trains and boats.**—Every person who, being employed upon any railway as engineer, conductor, baggage master, brakeman, switch tender, fireman, bridge tender, flagman, or signal man; or person having charge of stations, starting, regulating, or running trains upon a railway; or person employed as captain, engineer, or other officer of a vessel propelled by steam—shall be intoxicated while engaged in the discharge of any such duties, shall be guilty of a gross misdemeanor.—R. L. 1905, § 5000.

§ 1206. **Failure to ring bell, etc.**—Every engineer, driving a locomotive on any railway, who shall fail to ring the bell or sound the whistle upon such locomotive, or cause the same to be rung or sounded, at least 80 rods from any place where such railway crosses a traveled road or street on the same level (except in cities), or to continue the ringing of such bell or sounding of such whistle at intervals until such locomotive and the train thereto attached shall have completely crossed such road or street, shall be guilty of a misdemeanor.—R. L. 1905, § 5001.

§ 1207. **Other violations of duty.**—Every engineer, conductor, brakeman, switch tender, train dispatcher, or any other officer, agent, or servant of any railway company, who shall be guilty of any wilful violation or omission of his duty as such officer, agent, or servant, by which human life or safety shall be endangered, for which no punishment is specially prescribed, shall be guilty of a misdemeanor.—R. L. 1905, § 5002.

§ 1208. **Liability of persons handling steamboats or steam boilers.**—Every person who shall apply, or cause to be applied, to a steam boiler a higher pressure of steam than is allowed by law, or by the inspector, officer, or person authorized to limit the same; every captain or other person having charge of the machinery or boiler of a steamboat used for the conveyance of passengers in the waters of this state, who, from ignorance or gross neglect, or for the purpose of increasing the speed of the boat, shall create or cause to be created an undue and unsafe pressure of steam; and every engineer or other person having charge of a

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steam boiler, steam engine, or other apparatus for generating or employing steam, employed in a railway, manufactory, or other mechanical works, who shall wilfully, or from ignorance or gross neglect, create, or allow to be created, such an undue quantity of steam as to burst the boiler, engine, or apparatus, or cause any other accident, whereby human life is endangered—shall be guilty of a gross misdemeanor.—R. L. 1905, § 5003.

§ 1209. **Dangerous exhibitions.**—Every proprietor, lessee, or occupant of any place of amusement, or any plat of ground, or building, who shall use or allow it to be used for the exhibition of skill in throwing any sharp instrument at or toward any human being, or who shall aim or discharge, or allow to be aimed or discharged, at or towards any human being, any bow-gun, pistol, or firearm of any description, shall be guilty of a misdemeanor.—R. L. 1905, § 5004.

§ 1210. **Acrobatic exhibitions.**—Every proprietor, occupant, or lessee of any place where acrobatic exhibitions are held, who shall permit any person to perform on any trapeze, rope, pole, or other acrobatic contrivance, without network, or other sufficient means of protection from falling or other accident, shall be guilty of a gross misdemeanor, and for the first offense punished by a fine of \$250, and for each subsequent offense by a fine of \$250 and imprisonment in the county jail for not less than three months nor more than one year.—R. L. 1905, § 5005.

§ 1211. **Guarding ice cutting.**—Every person cutting ice in or upon any waters wholly or partly in the state, for the purpose of removing the ice, at or before the time of commencing such cutting shall surround the cuttings and openings made with fences or guards sufficient to warn all persons of the same, and shall maintain such fence or guard until the ice has again formed in such openings to the thickness of at least six inches. Every such person who shall fail to comply with any requirement of this section shall be guilty of a misdemeanor.—R. L. 1905, § 5006.

§ 1212. **Deposit of unwholesome substances.**—Every person who shall deposit, leave, or keep, on or near a highway or route of public travel, on land or water, any noisome or unwholesome substance; or who shall establish, maintain, or carry on, upon or near a highway or route of public travel, on land or water, any business, trade, or manufacture which is noisome or detrimental to the public health; or who shall deposit or cast into any lake, creek, or river wholly or partly in the state, or shall deposit upon the ice of any such lake, creek, or river, the carcass of, or the dead body of, any animal—shall be guilty of a gross misdemeanor, and punished by a fine of not less than \$100, or imprisonment in the county jail for not less than three nor more than six months.—R. L. 1905, § 5007.

§ 1213. **Exposing person with contagious disease.**—Every person who shall wilfully expose himself or another affected with any contagious or infectious disease, in any public place or thoroughfare, except upon his necessary removal in a manner not dangerous to the public health, shall be guilty of a misdemeanor.—R. L. 1905, § 5008.

§ 1214. **Diseased sheep.**—Every owner or person in charge of sheep, who shall import or drive into the state, or who shall turn out or suffer to run at large, upon any highway or uninclosed lands, or upon any lands adjoining inclosed lands, occupied by any person for pasturing sheep, any sheep having any contagious disease, or who shall sell, let, or dispose of any such sheep, knowing them to be so diseased, without first apprising the purchaser or person taking them of such disease, shall be guilty of a gross misdemeanor, and punished by a fine of not less than \$50 nor more than \$200.—R. L. 1905, § 5009.

§ 1215. **Glandered animal.**—Every owner or person having the care and control of a horse or other animal having the glanders, who shall knowingly permit such animal to run at large, or be driven upon any highway; or who shall sell, or in any manner dispose, of the same to any other person; and every keeper of a public barn, who shall knowingly

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permit any horse or other animal having such disease to be stabled in such barn—shall be guilty of a misdemeanor, and be punished by a fine of not less than \$25, or by imprisonment in the county jail for not less than 10 nor more than 90 days.—R. L. 1905, § 5010.

§ 1216. **Diseased animals—Disposal of carcasses, etc.**—Every person owning or having in charge any domestic animal that has died or been killed on account of disease shall immediately bury the carcass thereof at least three feet deep in the ground or cause the same to be consumed by fire. No person shall sell, offer to sell, or give away such carcass when the animal died or was killed on account of disease, nor convey the same along any public road or upon any land not his own. Nor shall any person negligently or wilfully permit diseased animals owned or controlled by him to escape his control or to run at large. Every violation of any provision of this section shall be a misdemeanor.—R. L. 1905, § 5011.

§ 1217. **Impure Water.**—Every owner, agent, manager, operator, or any one having charge of any waterworks, furnishing water for public or private use, who knowingly permits the appliances of the same to become in a filthy condition, or in such condition that the purity and healthfulness of the water supplied by reason thereof becomes impaired, shall be guilty of a felony, and punished by imprisonment in the State Prison for not more than ten years.—R. L. 1905, § 5012.

§ 1218. **Toilet rooms for depots.**—The railroad and warehouse commission of this state is hereby authorized and empowered, on complaint duly made, to order that all railroad companies operating within the State of Minnesota shall provide or cause to be provided suitable toilet rooms in, or immediately adjacent to, every railroad station waiting room located on its lines in this state, and they are hereby required to maintain and keep said toilet rooms in a good sanitary condition. Provided, in case there is no water and sewerage system in towns where railroad station waiting rooms are located, which extends to a point not more than one hundred feet distant from such station waiting rooms; then, and in such case, said railroad companies shall provide and maintain, in good sanitary condition, within a reasonable and convenient distance of said station waiting rooms, a suitable closet or privy.—G. L. 1905, Chap. 208, § 1.

§ 1219. **Penalty for violation.**—Any railroad company maintaining waiting rooms at their stations in this state, who shall fail to comply with the provisions of section 1, of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not exceeding one hundred dollars (\$100.00) and costs of prosecution.—G. L. 1905, Chap. 208, § 2.

§ 1220. The railroad and warehouse commission of the state shall have power to enforce the provisions of this act.—G. L. 1905, Chap. 208, § 3.

TITLE VIII.—CRIMES AGAINST THE PUBLIC PEACE.

§ 1221. **Disturbing meetings—Disorderly conduct.**—Every person who, without authority of law, shall wilfully disturb any assembly or meeting not unlawful in its character, shall be guilty of a misdemeanor, and punished by a fine of not less than \$5 nor more than \$50.—R. L. 1905, § 5013.

§ 1222. **"Riot" defined.**—Whenever three or more persons, having assembled for any purpose, shall disturb the public peace by using force or violence to any other person or to property, or shall threaten or attempt to commit such disturbance, or to do an unlawful act by the use of force or violence, accompanied with the power of immediate execution of such threat or attempt, they shall be guilty of a riot.—R. L. 1905, § 5014.

§ 1223. **Riot, how punished.**—Every person who shall be guilty of riot, or of participating therein, by being present, or by instigating, promoting, or aiding the same, shall be punished as follows:

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1. If the purpose of the assembly, or of the acts done, threatened, or intended by the persons engaged, shall be to resist the enforcement of a statute of this state or of the United States, or to obstruct any public officer of this state or the United States in serving or executing any process or other mandate of a court, or in the performance of any other duty, or if at the time of the riot the offender shall carry firearms or any other dangerous weapon, or shall be disguised, by imprisonment in the State Prison for not more than five years, or by a fine of not more than \$1,000, or by both.

2. If the offender shall direct, advise, encourage, or solicit other persons present or participating in the riot or assembly to acts of force or violence, by imprisonment in the State Prison for not more than two years, or by a fine of not more than \$500, or by both.

3. In every other case, by imprisonment in the State Prison for not more than one year, or by a fine of not more than \$250, or by both.—R. L. 1905, § 5015.

§ 1224. **Unlawful assembly.**—Whenever three or more persons shall assemble with intent—

1. To commit any unlawful act by force;

2. To carry out any purpose in such a manner as to disturb the public peace; or,

3. Being assembled, shall attempt or threaten any act tending toward a breach of the peace, or an injury to persons or property, or any unlawful act—

Such an assembly is unlawful, and every person participating therein by his presence, aid, or instigation shall be guilty of a misdemeanor.—R. L. 1905, § 5016.

§ 1225. **Remaining after warning.**—Every person who shall remain present at the place of an unlawful assembly, after having been warned to disperse by a magistrate or public officer, unless as a public officer or at the request of any such officer he is assisting in dispersing the same, or in protecting persons or property or in arresting offenders, shall be guilty of a misdemeanor.—R. L. 1905, § 5017.

§ 1226. **Destruction of property.**—Whenever any of the persons so unlawfully assembled shall pull down or destroy any dwelling house or other building, or any shop, steamboat, or vessel, he shall be punished by imprisonment in the State Prison for not less than three nor more than seven years, or by fine of not more than \$1,000.—R. L. 1905, § 5018.

§ 1227. **Combination to resist process.**—Every person who enters into a combination with another to resist the execution of any legal process or other mandate of a court of competent jurisdiction, under circumstances not amounting to a riot, shall be guilty of a gross misdemeanor.—R. L. 1905, § 5019.

§ 1228. **Prize fighting—Aiding—Betting or stakeholding.**—Every person who, within this state, shall engage in, instigate, aid, encourage, or do any act to further an encounter or fight with or without weapons between two or more persons, or a fight commonly called a ring or prize fight, or an encounter commonly called a sparring match, in which the combatants are provided with gloves, whether such fight or encounter shall take place within or without the state; or who shall send or publish a challenge or acceptance of a challenge for such an encounter or fight; or who shall carry or deliver such a challenge or acceptance, or shall train or assist any person in training or preparing for such an encounter or fight; or who shall bet, stake, or wager money or other property upon the result of such encounter or fight; or who shall hold or undertake to hold money or other property so staked or wagered to be delivered to or for the benefit of the winner thereof—shall be guilty of a misdemeanor.—R. L. 1905, § 5020.

§ 1229. **Fight out of the state.**—Every person who shall leave the state with intent to elude any provision of the preceding section, or to do any act out of the state which is prohibited therein, and every resi-

dent of the state who shall do any act out of the state which would be punishable under the preceding section if done in the state, shall be guilty of the same offense and subject to the same punishment as if the act had been done in the state. An indictment for such offense may be tried in any county in the state.—R. L. 1905, § 5021.

§ 1230. **Apprehension of person about to fight—Bail—Commitment.**—Whenever it shall be made to appear to any magistrate having authority to issue warrants in criminal cases that there is reasonable grounds to apprehend that an offense specified in the two preceding sections is about to be committed within his jurisdiction, or by any person therein, he shall issue his warrant for the arrest of the person or persons so about to offend, and if upon any such person being brought before him it shall appear that there is reasonable ground to believe that he is about to commit such offense he shall require him to give bond to the state, approved by him, in a sum not exceeding \$1,000, with or without sureties, conditioned that such person shall not within one year thereafter commit such offense. On failure to furnish such bond such person shall be committed to the county jail until duly discharged by the district court; but upon furnishing the required bond he may be released upon habeas corpus. The sureties of the bond herein specified shall be approved by the officer taking it.—R. L. 1905, § 5022.

§ 1231. **Forcible entry and detainer.**—Every person using, or procuring, or encouraging, or assisting another to use any force or violence in entering upon or detaining any lands or other possessions of another, except in the cases and in the manner allowed by law, and every person who has been removed from any lands by process of law, or who has removed therefrom pursuant to the lawful adjudication or direction of any court, tribunal, or officer, and afterwards, without authority of law, returns to settle or reside upon, or take possession thereof, shall be guilty of a gross misdemeanor.—R. L. 1905, § 5023.

§ 1232. **Aiming or discharging firearms, etc.**—Every person who shall aim any gun, pistol, revolver, or other firearm, whether loaded or not, at or towards any human being, or who shall wilfully discharge any firearm, air gun, or other weapon, or throw any deadly missile, in a public place, or in any place where there is any person to be endangered, although no injury actually results, shall be guilty of a misdemeanor.—R. L. 1905, § 5024.

§ 1233. **Use of firearms by minors.**—No minor under the age of 14 years shall handle, or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent or guardian, any firearm of any kind for hunting or target practice or any other purpose. Every person violating any of the foregoing provisions, or aiding or knowingly permitting any such minor to violate the same, shall be guilty of a misdemeanor.—R. L. 1905, § 5025.

§ 1234. **Offenses in public conveyances—Punishment.**—Every person who shall wilfully use profane, offensive, or indecent language, or engage in any quarrel in any railway or street railway car or other public conveyance, or shall interfere with or annoy any passenger therein, or having refused to pay the proper fare, shall fail to leave any such conveyance upon demand, or, with the intent to avoid the payment of fare, shall ride upon any car not commonly used for the carriage of passengers, or shall take any dog into any such car or conveyance or smoke therein, contrary to the rules of the corporation or person operating the same, shall be guilty of a misdemeanor.—R. L. 1905, § 5026.

§ 1235. **Conductor—Authority to arrest, etc.**—Every conductor of a railway train, with or without warrant, may arrest any person committing any act specified in the preceding section, and take him before a magistrate or to the next railway station, and deliver him to the proper officer, or to the station agent, who shall take such person before the proper magistrate, or deliver him to such officer. Every such conductor and station agent shall in such case possess all the powers of a sheriff with a warrant.—R. L. 1905, § 5027.

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§ 1236. **Witness not excused, when.**—No person shall be excused from giving evidence upon an investigation or prosecution for any offense specified in this subdivision upon the ground that his testimony might tend to convict him of a crime.—R. L. 1905, § 5028.

TITLE IX.—CRIMES AGAINST PROPERTY.

I.—Crimes Against State Property and Revenue.

§ 1237. **Misappropriation and falsification of accounts by public officers.**—Every public officer, and every other person receiving money on behalf or for account of the people of the state, or of any department of the state government, or of any bureau or fund created by law, in which the people are directly or indirectly interested, or for or on account of any county, city, village, borough, town, or school district, who—

1. Shall appropriate to his own use, or the use of any person not entitled thereto, without authority of law, any money so received by him as such officer or otherwise;

2. Shall knowingly keep any false account, make any false entry or erasure in any account, of or relating to any money so received by him;

3. Shall fraudulently alter, falsify, conceal, destroy, or obliterate any such account; or,

4. Shall wilfully omit or refuse to pay over to the state, its officer or agent authorized by law to receive the same, or to such county, city, village, borough, town, or school district, or to the proper officer or authority empowered to demand and receive the same, any money received by him as such officer, when it is a duty imposed upon him by law to pay over and account for the same—

Shall be guilty of a felony.—R. L. 1905, § 5029.

§ 1238. **Other violations by officers.**—Every officer or other person mentioned in the preceding section who shall wilfully disobey any provision of law regulating his official conduct in cases other than those specified in said section shall be guilty of a gross misdemeanor, and punished by a fine of not more than \$1,000, or by imprisonment in the county jail for not more than two years, or by both.—R. L. 1905, § 5030.

§ 1239. **Misappropriation, etc., by county treasurer.**—Every county treasurer who shall wilfully misappropriate any moneys, funds, or securities received by or deposited with him as such treasurer, or who shall be guilty of any other malfeasance or wilful neglect or duty in his office, shall be guilty of felony, and punished by imprisonment in the State Prison for not less than one nor more than five years, or by fine of not less than \$500 nor more than \$10,000 or by both.—R. L. 1905, § 5031.

§ 1240. **Officer interested in contract.**—Every public officer who shall be authorized to sell or lease any property, to make any contract in his official capacity, or to take part in making any such sale, lease, or contract, and every employee of such officer, who shall voluntarily become interested individually in such sale, lease, or contract, directly or indirectly, shall be guilty of a gross misdemeanor.—R. L. 1905, § 5032.

§ 1241. **False statement regarding taxes.**—Every person who, in making any statement, oral or written, which is required or authorized by law to be made as a basis of imposing or reducing any tax or assessment, who shall wilfully make any statement as to any material matter which he knows to be false, shall be guilty of a gross misdemeanor.—R. L. 1905, § 5033.

§ 1242. **Wilful trespass on pine lands, how punished.**—Every person who shall commit any wilful trespass upon lands now or hereafter held in trust or otherwise by the state, by cutting pine timber for lumber purposes, or by evidently endangering or exposing pine timber to fire or decay, or who shall in any manner aid or abet such trespass, or who shall wilfully burn over, or cause to be burned over, any of said lands, shall be guilty of a felony, and punished by imprisonment in the State Prison for not more than one year, or by fine of not more than \$1,000, or by both.—R. L. 1905, § 5034.

II.—Crimes Against Other Property.

§ 1243. **Words and terms defined.**—The following words and terms as used in this chapter shall be construed to mean as follows: The word "nighttime," the period between sunset and sunrise; the word "dwelling house," every building or structure which shall have been usually occupied by persons lodging therein at night, and whenever it shall be so constructed as to consist of two or more parts, occupied or intended to be occupied by different tenants separately by usually lodging therein at night, or for any other separate purpose, each part shall be deemed the separate dwelling house of the tenant occupying the same; the word "building," every house, vessel, railway car, tent, shop, or other structure suitable for affording shelter for human beings, or appurtenant to or connected with a structure so adapted; the term "inhabited building," any building any part of which has usually been occupied by a person lodging therein at night.

The word "break" shall include:

1. Breaking or violently detaching any part, internal or external, of a building.
2. Opening, for the purpose of entering therein by any means whatever, any outer door of a building, or of any apartment or set of apartments therein separately used and occupied, or any window, shutter, scuttle, or other thing used for covering or closing an opening thereto or therein, or which gives passage from one part thereof to another;
3. Obtaining an entrance into such building or apartment by any threat or artifice used for that purpose, or by collusion with any person therein; or
4. Entering such building or apartment by or through any pipe, chimney, or other opening, or by excavating, digging, or breaking through or under the building of the walls or foundation thereof.

The word "enter" shall include the entrance of the offender into such building or apartment, or the insertion therein of any part of his body, or of any instrument or weapon held in his hand, and used or intended to be used to threaten or intimidate the inmates, or to detach or remove property. The term "director" shall embrace any of the persons having by law the direction or management of the affairs of a corporation, by whatever name such persons are described in its charter or are known in law.—R. L. 1905, § 5035.

III.—Arson.

§ 1244. **Arson in first degree, how punished.**—Every person who shall wilfully burn or set on fire, in the night-time—

1. A dwelling house in which there shall be at the time a human being; or
2. A car, vessel, or other vehicle, or a structure or building other than a dwelling house, in which, to the knowledge of the offender, there shall be at the time a human being—

Shall be guilty of arson in the first degree, and punished by imprisonment in the State Prison for not less than ten years.—R. L. 1905, § 5036.

§ 1245. **Second degree, how punished.**—Every person who—

1. Shall commit an act of burning in the daytime, which, if committed in the night-time, would be arson in the first degree;
2. Shall wilfully burn or set on fire in the night-time a dwelling house in which there is not at the time a human being;
3. Shall wilfully burn or set on fire in the night-time a building not inhabited, but adjoining or within the curtilage of an inhabited building, in which there shall be at the time a human being, so that the inhabited building shall be endangered, even though it be not in fact injured by the burning; or
4. Shall wilfully burn or set on fire in the night-time a car, vessel, or other vehicle, or a structure or building ordinarily occupied at night by a human being, although no person be in it at the time—

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Shall be guilty of arson in the second degree, and punished by imprisonment in the State Prison for not less than seven nor more than fifteen years.—R. L. 1905, § 5037.

§ 1246. **Third degree, how punished.**—Every person who shall willfully burn or set on fire—

1. A vessel, car, or other vehicle, or building, structure, or other erection, which shall be at the time insured against loss or damage by fire, with intent to prejudice the insurer thereof;

2. A vessel, car, or other vehicle, or a building, structure, or other erection, under circumstances which would not amount to arson in the first or second degree; or

3. Any machinery, vehicle, pile or parcel of boards, timber, or other lumber, any stack of hay, grain, or other vegetable product, severed from the soil, whether stacked or not, or any standing grain, grass, or other standing product of the soil—

Shall be guilty of arson in the third degree, and punished by imprisonment in the State Prison for not more than seven years.—R. L. 1905, § 5038.

§ 1247. **Contiguous buildings.**—Whenever an appurtenance to a building is so situated with reference to such building, or whenever any building is so situated with reference to another building, that the burning of the one will manifestly endanger the other, a burning of the one shall be deemed a burning of the other, within the foregoing provisions of this subdivision, against any person actually participating in the original setting on fire, as of the moment when the fire from the one communicates to and sets on fire the other.—R. L. 1905, § 5039.

§ 1248. **Ownership of building.**—To constitute arson, it shall not be necessary that another person than the defendant should have had ownership in the building set on fire.—R. L. 1905, § 5040.

IV.—Burglary.

§ 1249. **First degree, how punished.**—Every person who, with intent to commit some crime therein, shall break and enter, in the night-time, the dwelling house of another, in which there shall be at the time a human being—

1. Being armed with a dangerous weapon;

2. Arming himself therein with such a weapon;

3. Being assisted by a confederate actually present; or

4. While engaged in the night-time, in effecting such entrance, committing any crime in such building, or in escaping therefrom, shall assault any person—

Shall be guilty of burglary in the first degree, and punished by imprisonment in the State Prison for not less than ten years.—R. L. 1905, § 5041.

§ 1250. **Burglary in first degree.**—A person who, with intent to commit some crime therein, breaks and enters, in the night-time, the dwelling house of another, in which there is at that time a human being; first, being armed with a dangerous weapon; or, second, arming himself therein with such weapon; or, third, being assisted by a confederate actually present; or, fourth, who, while engaged in the night-time in effecting such entrance, or in committing any crime in such a building, or in escaping therefrom, assaults any person; or who, with intent to commit some crime therein, breaks or enters any building, or a room or any part of a building, and while therein has in his possession, or makes use of, any dangerous explosive, or burglars' tools, is guilty of burglary in the first degree.—G. S. 1894, § 6677 as amended G. L. 1905, Chap. 210.

§ 1251. **Second degree, how punished.**—Every person who, with intent to commit some crime therein, shall break and enter the dwelling house of another, in which there is a human being, under circumstances not amounting to burglary in the first degree, or, any person who, with intent to commit some crime therein, shall break and enter any room or

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building, whether occupied by a human being at the time or not, wherein a general banking business is carried on, or any structure wherein a business of receiving public or private funds on deposit is done, shall be guilty of burglary in the second degree, and punished by imprisonment in the State Prison for not more than ten years. All acts and parts of acts inconsistent with the provisions hereof are hereby repealed.—R. L. 1905, § 5042, as amended G. L. 1907, Chap. 227.

§ 1252. **Third degree, how punished.**—Every person who—

1. With intent to commit a crime therein, shall break and enter a building, or any part thereof, or a room; or,

2. Being in any building, shall commit a crime therein, and shall break out of the same—

Shall be guilty of burglary in the third degree, and punished by imprisonment in the State Prison for not less than one nor more than five years.—R. L. 1905, § 5043.

§ 1253. **Unlawfully entering building, how punished.**—Every person who, under circumstances or in a manner not amounting to a burglary, shall enter a building, or any part thereof, with intent to commit a felony or any malicious mischief, shall be guilty of a gross misdemeanor.—R. L. 1905, § 5044.

§ 1254. **Crime in building, punished separately.**—Every person who, having entered a building under such circumstances as to constitute burglary in any degree, shall commit any crime therein, shall be punished therefor as well as for the burglary, and may be prosecuted for each crime separately.—R. L. 1905, § 5045.

§ 1255. **Making or having burglar's tools.**—Every person who shall make or mend, or cause to be made or mended, or have in possession in the day or night-time, any engine, machine, tool, false key, picklock, bit, nippers, implement, or explosive adapted, designed, or commonly used for the commission of burglary, larceny, or other crime, under circumstances evincing an intent to use or employ, or allow the same to be used or employed, in the commission of a crime, or knowing that the same is intended to be so used, shall be guilty of a felony.

The having in possession any such engine, machine, tool, false key, picklock, bit, nippers, implement or explosive shall be prima facie evidence of an intent to so use or employ the same in the commission of a crime.—R. L. 1905, § 5046, as amended G. L. 1909, Chap. 157.

V.—Forgery.

§ 1256. **Words and terms defined.**—Within the provisions of this subdivision, a "written instrument," or a "writing" shall include an instrument partly written and partly printed or wholly printed, with a written signature thereto, or any signature or writing purporting to be a signature of, or intended to bind, an individual, partnership, corporation, or association, or an officer thereof. The words "forge," "forged," and "forging" shall include false making, counterfeiting, and the alteration, erasure, or obliteration of a genuine instrument, in whole or in part, the false making or counterfeiting of the signature of a party or witness, and the placing or connecting together, with intent to defraud, of different parts of several genuine instruments. A plate is in the "form and similitude" of the genuine instrument imitated if the finished parts of the engraving thereupon shall resemble and conform to the similar parts of the genuine instrument. A "trade-mark" is a mark used to indicate the maker, owner, or seller of any goods, wares, merchandise, mixture, preparation, or compound, and includes, among other things, any name of a person or corporation, or any letter, word, device, emblem, figure, seal, stamp, diagram, brand, wrapper, ticket, stopper, label, or other mark lawfully adopted by him, and usually affixed to any goods, wares, merchandise, mixture, preparation, or compound, to denote that the same was imported, manufactured, produced, sold, compounded, bottled, packed, or otherwise prepared by him. An "imitation" of a trade-mark, stamp, brand, wrapper, or

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label is that which so far resembles the genuine trade-mark, stamp, brand, wrapper, or label as to be likely to induce the belief that it is genuine, either by the use of words or letters similar in appearance or sound, or by any sign, device, or other means whatsoever.—R. L. 1905, § 5047.

§ 1257. **First degree.**—Every person who, with intent to defraud, shall forge—

1. A will or codicil, or the attestation thereof, or a deed or other instrument, being or purporting to be the act of another, by which any right or interest in property is or purports to be transferred, conveyed, or in any way changed or affected;

2. A certificate of the acknowledgment or proof of a will, codicil, deed, or other instrument which may by law be recorded, or given in evidence when duly proved or acknowledged, made or purporting to have been made by a court or officer duly authorized to make such certificate;

3. A certificate, bond, paper, writing, or other public security issued or purporting to have been issued by or under the authority of this state or of the United States, or of any other state or territory of the United States, or of any foreign government, country, or state, or by any officer thereof in his official capacity, by which the payment of money is promised, absolutely or upon any contingency, or the receipt of any money or property is acknowledged, or being or purporting to be evidence of any debt or liability, either absolute or contingent, issued or purporting to have been issued by lawful authority;

4. An indorsement or other instrument transferring or purporting to transfer the right or interest of any holder of such certificate, obligation, public security, evidence of debt or liability, or of any person entitled to such right or interest;

5. A certificate of stock, bond, or other writing, bank note, bill of exchange, draft, check, certificate of deposit, or other obligation or evidence of debt, issued or purporting to be issued by any bank, banking association, or body corporate existing under the laws of this state or of the United States, or of any other state, government, or country, declaring or purporting to declare any right, title, or interest of any person in any portion of the capital stock or property of such body corporate, or promising or purporting to promise or agree to the payment of money or the performance of any act, duty, or obligation; or

6. An indorsement or other writing transferring or purporting to transfer the right or interest of any holder of such certificate, bond, or writing obligatory, or of any person entitled to such right or interest—

Shall be guilty of forgery in the first degree.—R. L. 1905, § 5048.

§ 1258. **False certificate to certain instruments.**—Every officer authorized to take the proof or acknowledgment of an instrument which by law may be recorded, who shall wilfully certify falsely that the execution of such instrument was acknowledged by any party thereto, or that the execution thereof was proved, shall be guilty of forgery in the first degree.—R. L. 1905, § 5049.

§ 1259. **First degree, how punished.**—Forgery in the first degree shall be punished by imprisonment in the state prison for not more than twenty years.—R. L. 1905, § 5050.

§ 1260. **Second degree.**—Every person who, with intent to defraud—
1. Shall forge the great seal of this state, the seal of any court of record, or of any public office or officer authorized by law, or of any body corporate created by or existing under the laws of this state or of the United States, or of any other state or any territory of the United States, or of any other state, government, or country, or any impression of such a seal, or any gold or silver coin, whether of the United States, or of any foreign state, government, or country;

2. Shall forge a record of a will, conveyance, or instrument of any kind, the record of which is by the law of this state made evidence,

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or of any judgment, order, or decree of any court or officer, or a certified or authenticated copy thereof;

A judgment roll, judgment, order, or decree of any court or officer, or an enrollment thereof, or a certified or authenticated copy thereof;

Any document or writing purporting to be such judgment, decree, enrollment, or copy;

An entry made in any book of record or accounts kept by or in the office of any officer of this state, or of any village, city, town, school district, or county of the state, by which any demand, claim, obligation, or interest in favor of or against the people of the state, or any city, village, borough, town, school district, or county, or any officer thereof, is or purports to be created, increased, diminished, discharged, or in any manner affected; or an entry made in any book of records or accounts kept by a corporation doing business within the state, or in any account kept by such a corporation whereby any pecuniary obligation, claim or credit is or purports to be created, increased, diminished, discharged, or in any manner affected;

An instrument, document, or writing, being or purporting to be a process or mandate issued by a competent court, magistrate, or officer of the state, or the return of an officer, court or tribunal to such a process or mandate; or a bond, recognizance, undertaking, pleading, or proceeding, filed or entered in any court of the state; or a certificate, order, or allowance by a competent court or officer; or a license or authority granted pursuant to any statute of the state; or a certificate, document, instrument, or writing made evidence by any law;

An instrument or writing, being or purporting to be the act of another, by which a pecuniary demand or obligation is or purports to be or to have been created, increased, discharged, or diminished, or in any manner affected, or by which any rights or property whatever are or purport to be or to have been created, transferred, conveyed, discharged, increased, or diminished, or in any manner affected, the punishment for forging, altering or counterfeiting which is not hereinbefore prescribed, by which false making, forging, altering, or counterfeiting any person may be bound, affected, or in any way injured in his person or property;

3. Shall make or engrave a plate in the form or similitude of a promissory note, bill of exchange, bank note, draft, check, certificate of deposit, or other evidence of debt issued by a banker or by any banking corporation or association incorporated or carrying on business under the laws of this state or of the United States, or of any other state of the United States, or of any foreign government or country, without the authority of such banker or banking corporation or association; or,

Without like authority, shall have in his possession or custody such a plate, with intent to use, or permit the same to be used, for the purpose of taking therefrom any impression to be uttered;

Without like authority, shall have in his possession or custody any impression taken from such a plate, with intent to have the same filled up and completed for the purpose of being uttered; or

Shall make or engrave, or cause to be made or engraved, upon any plate, any figures or words, with intent that the same may be used for the purpose of falsely altering any evidence of debt hereinbefore mentioned—

Shall be guilty of forgery in the second degree.—R. L. 1905, § 5051.

§ 1261. **Second degree, how punished.**—Forgery in the second degree shall be punished by imprisonment in the State Prison for not more than ten years.—R. L. 1905, § 5052.

§ 1262. **Forgery in the third degree.**—Every person who—

1. Being an officer or in the employment of a corporation, association, partnership, or individual, shall falsify, or unlawfully and corruptly, alter, erase, obliterate, or destroy any accounts, book of accounts, records, or other writing belonging or appertaining to the business of the corporation, association, partnership, or individual;

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2. With intent to injure or defraud, shall falsely make, alter, forge, or counterfeit, or shall cause, aid, abet, assist, or otherwise connive at or be a party to the making, altering, forging, or counterfeiting of, any letter, telegram, report, or other written communication, paper, or instrument, by which making, altering, forging, or counterfeiting any other person shall be in any manner injured in his good name, standing, position, or general reputation;

3. Shall utter, or shall cause, aid, abet, or otherwise connive at or be a party to the uttering of, any letter, telegram, report, or other written communication, paper, or instrument purporting to have been written or signed by another person, or any paper purporting to be a copy of any such paper or writing where no original existed, which said letter, telegram, report, or other written communication, paper, or instrument, or other paper purporting to be a copy thereof as aforesaid, the person uttering the same shall know to be false, forged, or counterfeited, and by the uttering of which the sentiments, opinions, conduct, character, prospects, interests, or rights of such other person shall be misrepresented or otherwise injuriously affected;

4. With intent to defraud, shall forge, alter, or counterfeit any certificate, card, seal, or receipt for dues, purporting to have been given or issued by any association of railway employees, or any labor organization, trade union, or association of mechanics or laboring men, or any officer or agent thereof, to its members;

5. With intent to defraud, shall forge, alter, or counterfeit any letter or certificate purporting to have been given by any corporation or person, or officer or agent thereof, showing the capacity in which he had been employed by such corporation or person, or the date and cause of his leaving such service;

6. With intent to defraud, shall utter or publish as true any false, altered, forged, or counterfeit letter, certificate, card, seal, or receipt, the forging, altering, or counterfeiting of which is herein prohibited—

Shall be guilty of forgery in the third degree.—R. L. 1905, § 5053.

§ 1263. **Concealing larceny, etc., forgery.**—Every person who, with intent to defraud or to conceal any larceny or misappropriation by any person of any money or property—

1. Shall alter, erase, obliterate, or destroy any account, book of accounts, record, or writing belonging or appertaining to the business of a corporation, association, public office, officer, partnership, or individual;

2. Shall make a false entry in any such account or book of accounts; or

3. Shall wilfully omit to make a true entry of any material particular in any such account, or book of accounts, made, written, or kept by him or under his direction—

Shall be guilty of forgery in the third degree.—R. L. 1905, § 5054.

§ 1264. **Forging passage tickets.**—Every person who, with intent to defraud, shall forge, counterfeit, or falsely alter any ticket, check, or other paper or writing entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railway, vessel, or other public conveyance, or who, with like intent, shall sell, exchange, deliver, keep, or offer for sale, exchange, or delivery, or receive upon any purchase, exchange, or delivery, any such ticket, knowing the same to have been forged, counterfeited, or falsely altered, shall be guilty of forgery in the third degree.—R. L. 1905, § 5055.

§ 1265. **Forging postage or revenue stamps.**—Every person who shall forge, counterfeit, or alter any postage or revenue stamp of the United States, or who shall sell, offer, or keep for sale, as genuine or as forged, any such stamp, knowing it to be forged, counterfeited, or falsely altered, shall be guilty of forgery in the third degree.—R. L. 1905, § 5056.

§ 1266. **Forgery in third degree, how punished.**—Forgery in the third degree shall be punished by imprisonment in the State Prison for not more than five years.—R. L. 1905, § 5057.

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§ 1267. **Officer of corporation selling shares.**—Every officer, agent, or other person employed by any company or corporation, domestic or foreign, who shall wilfully, and with a design to defraud, sell, pledge, or issue, or cause to be sold, pledged, or issued, or who shall sign, or procure to be signed, with intent to sell, pledge, or issue, or cause to be sold, pledged, or issued, a false, forged, or fraudulent paper, writing, or instrument, being or purporting to be a scrip, certificate, or other evidence of the ownership or transfer of any share of the capital stock of such company or corporation, or a bond or other evidence of debt of such company or corporation, or a certificate or other evidence of the ownership or of the transfer of any such bond or other evidence of debt, shall be guilty of forgery in the third degree, and upon conviction, in addition to the prescribed punishment for that offense, may also be sentenced to pay a fine of not more than \$3,000.—R. L. 1905, § 5058.

§ 1268. **Falsely indicating person as corporate officer.**—The false making or forging of an instrument or writing purporting to have been issued by or in behalf of a corporation or association, state or government, and bearing the pretended signature of any person therein falsely indicated as an agent or officer of such corporation, is forgery in the same degree as if that person was in truth such officer or agent of the corporation, association, state, or government.—R. L. 1905, § 5059.

§ 1269. **Uttering forged instruments, coins, etc., forgery.**—Every person who, knowing the same to be forged or altered, and with intent to defraud, shall utter, offer, dispose of, or put off as true, or have in his possession with intent to utter, offer, dispose of, or put off—

1. A forged seal or plate, or any impression of either;
2. A forged coin; or
3. A forged will, deed, certificate, indorsement, record, instrument, or writing, or other thing, the false making, forging, or altering of which is punishable as forgery—

Shall be guilty of forgery in the same degree as if he had forged the same.—R. L. 1905, § 5060.

§ 1270. **Uttering writing signed with wrongdoer's name.**—Whenever the false making or uttering of any instrument or writing is forgery in any degree, every person who, with intent to defraud, shall offer, dispose of, or put off such an instrument or writing subscribed or indorsed in his own name, or that of any other person, whether such signature be genuine or fictitious, under the pretense that such subscription or indorsement is the act of another person of the same name, or of a person not in existence, shall be guilty of forgery in the same degree.—R. L. 1905, § 5061.

VI.—Counterfeiting and Other Fraudulent Practices.

§ 1271. **Possession of counterfeit coin.**—Every person who shall have in his possession a counterfeit of any gold or silver coin, whether of the United States or any foreign country or government, knowing the same to be counterfeit, with intent to sell, utter, use, circulate, or export the same as true or as false, or to cause the same to be so uttered or used, shall be punished by imprisonment in the State Prison for not more than five years, or by a fine of not more than \$500, or by both.—R. L. 1905, § 5062.

§ 1272. **Advertising counterfeit money.**—Every person who, with intent to defraud, shall print, circulate, or distribute a letter, circular, card, pamphlet, handbill, or any other written or printed matter, offering or purporting to offer, for sale, exchange, or as a gift, counterfeit coin or paper money, or giving or purporting to give information where counterfeit coin or paper money can be procured, shall be punished by imprisonment in the State Prison for not more than five years, or by fine of not more than \$500, or by both.—R. L. 1905, § 5063.

§ 1273. **False certificate of registration of animals—False representation as to breed.**—Every person who by any false pretense shall obtain from any club, association, society, or company for the improvement of

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the breed of cattle, horses, sheep, swine, fowls, or other domestic animals or birds, a certificate of registration of any animal in the herd, or other register of any such association, society, or company, or a transfer of any such registration, and every person who shall knowingly represent any animal used for breeding purposes to be of a greater degree of any particular strain of blood than such animal actually possesses, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not more than six months, or by a fine of not more than \$250.—R. L. 1905, § 5064.

§ 1274. **Wilful false branding of animals.**—Every person who shall wilfully mark any of his horses, cattle, sheep, or hogs with the same mark or brand previously recorded by any other resident of the same county, and while such mark is still used by such other resident, or shall wilfully mark or brand the horses, cattle, sheep, or hogs of any other person with his own brand or mark, or shall wilfully destroy or alter any mark or brand upon any horses, cattle, sheep, or hogs of another, shall be guilty of a misdemeanor.—R. L. 1905, § 5065.

§ 1275. **Counterfeiting trade-mark, brand, etc.—How punished.**—Every person who shall knowingly and wilfully forge or counterfeit, or procure to be forged or counterfeited, any representation, likeness, similitude, copy, or imitation of the private stamp, brand, wrapper, label, or trade-mark usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman to or upon his goods, wares, merchandise, or preparation with intent to pass off any work, goods, manufacture, compound, or preparation to which such forged or counterfeited representation, likeness, similitude, copy, or imitation is affixed or intended to be affixed, as the work, goods, manufacture, compound, or preparation of such mechanic, manufacturer, druggist, merchant, or tradesman, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not less than six nor more than twelve months, or by a fine of not more than \$5,000.—R. L. 1905, § 5066.

§ 1276. **Possession of dies, plates, etc.—How punished.**—Every person who, with intent to defraud any person or corporation, shall have in his possession any die, plate, brand, engraving, or printed label, stamp, imprint, wrapper, or trade-mark, or any representation, likeness, similitude, copy, or imitation of the private stamp, brand, wrapper, label, or trade-mark usually affixed by a mechanic, manufacturer, druggist, merchant, or tradesman to or upon articles made, manufactured, prepared, or compounded by him for the purpose of making impressions for selling the same when made, or using it upon any other article made, manufactured, prepared, or compounded, and passing the same off upon the community as the original goods, manufactures, preparations, or compounds of any other person or corporation, or who shall wrongfully and fraudulently sell or use the genuine stamp, brand, imprint, wrapper, label, or trade-mark, with intent to pass off any goods, wares, merchandise, mixtures, compounds, or other articles not the manufacture of the person or corporation to whom such stamp, brand, imprint, wrapper, label, or trade-mark properly belongs, as genuine and original, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not less than six nor more than twelve months, or by fine of not more than \$5,000.—R. L. 1905, § 5067.

§ 1277. **Selling goods having false stamp—How punished.**—Every person who shall sell or keep for sale any goods, wares, merchandise, mixture, or preparation upon which any forged or counterfeit stamp, brand, imprint, wrapper, label, or trade-mark shall be placed or affixed, and intended to represent the said goods, wares, merchandise, mixture, or preparation as the genuine article of any other person, knowing the same to be counterfeit, shall be guilty of a gross misdemeanor, and punished by a fine of not more than \$500 for each offense.—R. L. 1905, § 5068.

§ 1278. **Affixing false stamps—How Punished.**—Every person who, with intent to defraud any person or corporation, shall knowingly affix or cause to be affixed to or upon any bottle, case, box, or package, con-

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taining any goods, manufacture, mixture, preparation, or compound, any stamp, brand, label, wrapper, imprint, or trade-mark containing words or characters which shall appear, either wholly or in part, the same to the eye or in sound to the ear as the words or characters, or some of them, used by any other person for designating any similar goods manufactured or prepared by or for such other person, or who shall knowingly sell or expose, or offer for sale, any such bottle, case, box, or package with any such stamp, brand, label, wrapper, imprint, or mark affixed to or upon it, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not less than six nor more than twelve months, or by a fine of not more than \$5,000.—R. L. 1905, § 5069.

§ 1279. **False branding by manufacturer.**—Every person who with intent to defraud, or enable another to defraud, any person, shall manufacture or knowingly sell, or cause to be manufactured or sold, any article marked, stamped, or branded, or incased or inclosed in any box, bottle, or wrapper having thereon any engraving or printed label, stamp, imprint, mark, or trade-mark, which articles are not the manufacture, workmanship, or production of the person named, indicated, or denoted by such mark, stamp, or brand or by or upon such engraving, printed label, stamp, imprint, mark, or trade-mark, shall be guilty of a gross misdemeanor.—R. L. 1905, § 5070.

§ 1280. **Trade-mark—When deemed affixed.**—A trade-mark shall be deemed to be affixed to any goods, wares, merchandise, mixture, preparation; or compound, whenever it is in any manner placed in or upon either the article itself, or a box, bale, barrel, bottle, case, cask, or other vessel or package, or a cover, wrapper, stopper, brand, label, or other thing in, by, or with which the goods are packed, inclosed, or otherwise prepared for sale or disposition.—R. L. 1905, § 5071.

§ 1281. **Trade-marks of workmen's unions.**—Whenever any person, or any association or union of workmen, shall have adopted or used any label, trade-mark, term, design, device, or form of advertisement for the purpose of designating, making known, or distinguishing any product of labor as having been made, produced, prepared, packed, or put on sale by such person, association, or union, or by a member thereof, it shall be unlawful to counterfeit or imitate the same, or to use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, design, device, or form of advertisement.—R. L. 1905, § 5072.

§ 1282. **Same—Counterfeiting or dealing in counterfeits—How punished.**—Every person who shall counterfeit or imitate any such label, trade-mark, term, design, device, or form of advertisement, or shall sell, offer for sale, or in any way utter or circulate any counterfeit or imitation thereof; or who shall keep, or have in his possession with intent that the same shall be sold or disposed of, any product of labor to or upon which any such counterfeit or imitation is attached, affixed, or impressed; or who shall knowingly sell or dispose of any product of labor contained in any box, case, can, or package to or upon which any such counterfeit or imitation is attached, affixed, or impressed; or who shall have in his possession, with intent that the same shall be sold or disposed of, any product of labor in any box, case, can, or package to which or upon which any such counterfeit or imitation is attached, affixed, or impressed—shall be punished by imprisonment in the county jail for not more than three months, or by a fine of not more than \$100.—R. L. 1905, § 5073.

§ 1283. **Registration.**—Every such label, trade-mark, term, device, design, or form of advertisement may be filed for record in the office of the Secretary of State on payment of a fee of \$1 each. In so filing the same, two copies, counterparts, or fac similes thereof shall be left with such Secretary, together with a sworn statement specifying the names of the persons, association, or union in whose behalf the same is filed, the class and description of the goods or products of labor to which it is or is intended to be appropriated, that the party in whose behalf the

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same is filed has the sole right to its use, and that the counterparts or fac similes filed are correct. But no label, trade-mark, term, design, device, or form of advertisement shall be so filed or recorded which could reasonably be mistaken for one theretofore filed.—R. L. 1905, § 5074.

§ 1284. **Fraudulent registration or use—Penalty.**—Every person who shall for himself, or on behalf of any other person, association, or union, procure the filing of any label, trade-mark, term, design, device, or form of advertisement with such Secretary under the foregoing provisions by any fraudulent means, and every person who shall use the name or seal of any such person, association, or union, or officer thereof in or with reference to the sales of goods or products of labor, not being authorized to use the same, shall be guilty of a misdemeanor.—R. L. 1905, § 5075.

§ 1285. **Certificates—Illegal use—Penalty.**—Such Secretary shall deliver to the person, association, or union filing any such label, trade-mark, term, design, device, or form of advertisement such number of certificates of the record thereof as shall be applied for, on payment of a fee of \$1 for each certificate, and such certificates shall in all cases be prima facie evidence of the adoption of such label, trade-mark, term, design, device, or form of advertisement. Every person who, without authority of the owner thereof, shall use or display the genuine label, trade-mark, term, design, device, or form of advertisement of any such person, association, or union, shall be guilty of a misdemeanor.—R. L. 1905, § 5076.

§ 1286. **Incriminating evidence.**—No testimony or evidence given or produced in a civil action, or on any reference or other proceeding in said action, by any party thereto or any witness therein, shall be used in any criminal prosecution against such witness or party under the provisions of this subdivision; nor shall any party or witness refuse to testify or produce book or papers as evidence in any civil action by reason of such provisions.—R. L. 1905, § 5077.

VII.—Larceny.

§ 1287. **What constitutes.**—Every person who, with intent to deprive or defraud the true owner of his property, or of the use and benefit thereof, or to appropriate the same to the use of the taker, or of any other person—

1. Shall take from the possession of the true owner, or of any other person, or obtain from such possession by color or aid of fraudulent or false representation or pretense, or of any false token or writing, or secrete, withhold, or appropriate, to his own use, or that of any person other than the true owner, any money, personal property, thing in action, evidence of debt, or contract, or article of value of any kind;

2. Having in his possession, custody, or control as bailee, servant, attorney, agent, clerk, trustee, or officer of any person, association, or corporation, or as a public officer, or person authorized by agreement or by competent authority to hold or take such possession, custody, or control, any money, property, evidence of debt or contract, article of value of any nature, or thing in action or possession, shall appropriate the same to his own use, or that of any other person than the true owner or person entitled to the benefit thereof; or

3. Having in his possession as storage, forwarding, or commission merchant, carrier, warehouseman, factor, or broker, or as the clerk, agent, or employee of any such storage, forwarding, or commission merchant, carrier, warehouseman, factor, or broker, with intent to defraud, shall sell or in any way dispose of, or apply or convert to his own use or the use of any other person, any bill of lading, customhouse permit, or warehouse receipt intrusted or consigned to him, or the proceeds or profits of the sale of any such property, or shall fraudulently fail to pay over any such proceeds after deducting charges or usual commission; and any consignor of any property or his agent, not being the absolute owner thereof, who, with intent to defraud, after delivery thereof for transporta-

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tion on any wharfbboat, water craft, vehicle, or to any common carrier, shall in any way stop, countermand, or change the consignment thereof, or shall sell, dispose of, or incumber such property, during transit, after the delivery thereof, or shall in any way convert the same to his own use, or the use of any other person than the true owner thereof or the person entitled to the benefit thereof; and every person or officer of any corporation who having given a receipt for agricultural products, or any goods, wares, or merchandise, whether such receipt shall have been given to the owner of said property or issued as security on the same, shall sell, dispose of, incumber, or in any way convert the same or any part thereof to his own use, or to the use of any person other than the one entitled thereto or to the benefit thereof—

Steals such property, and shall be guilty of larceny.—R. L. 1905, § 5078.

§ 1288. **Commission no defense.**—It shall be no defense to a prosecution under the second subdivision of the preceding section that the accused was entitled to a commission, out of the money or property appropriated, as compensation for collecting or receiving the same for or on behalf of the owner thereof, or that the money or property appropriated was partly the property of another and partly the property of the party accused; but it shall not be larceny for any bailee, servant, attorney, agent, clerk, trustee, or any other person mentioned in the second subdivision of the preceding section to retain his reasonable collection fee or charges.—R. L. 1905, § 5079.

§ 1289. **Obtaining money by fraudulent draft.**—Every person who shall wilfully, with intent to defraud, by color or aid of a check, draft, or order for the payment of money or the delivery of property, when such person knows that the drawer or maker thereof is not entitled to draw on the drawee for the sum specified therein, or to order the payment of the amount or delivery of the property, although no express representation is made in reference thereto, shall obtain from another any money or property, shall be guilty of stealing the same, and punished accordingly.—R. L. 1905, § 5080.

§ 1290. **Grand larceny in first degree, how punished.**—Every person who shall steal, or unlawfully obtain or appropriate in any manner specified in this chapter—

1. Property of any value by taking the same from the person of another in the night-time;

2. Property of the value of more than \$25 by taking the same in the night-time from any dwelling house, office, bank, shop, warehouse, vessel, railway car, or any building of any kind or description; or

3. Property of the value of more than \$500 in any manner whatsoever—

Shall be guilty of grand larceny in the first degree, and punished by imprisonment in the State Prison for not less than one nor more than ten years.—R. L. 1905, § 5081.

§ 1291. **Grand larceny in second degree, how punished.**—Every person who, under circumstances not amounting to grand larceny in the first degree, in any manner specified in this chapter, shall steal or unlawfully obtain or appropriate—

1. Property of the value of more than \$25, but not exceeding \$500, in any manner whatever;

2. Property of any value by taking the same from the person of another;

3. Property of any value, by taking the same in the day-time from any dwelling house, office, bank, shop, warehouse, vessel, or railway car, or any building whatever;

4. Property of less value than \$25 by taking the same in the night-time from any dwelling house, office, bank, shop, warehouse, vessel, or railway car, or any building whatever: or

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5. A record of a court or officer, or a writing, instrument, or record kept, filed, or deposited according to law with or in keeping of any public officer or officers—

Shall be guilty of grand larceny in the second degree, and punished by imprisonment in the State Prison for not more than five years, or by imprisonment in the county jail for not exceeding one year, or by fine of not more than \$500.—R. L. 1905, § 5082.

§ 1292. **Petit larceny.**—Every larceny, except in the first and second degrees as described in this chapter, shall be petit larceny, and punished by imprisonment in the county jail for not more than three months, or by a fine of not more than \$100.—R. L. 1905, § 5083.

§ 1293. **Application to unissued instruments and fixtures.**—Every provision of this chapter in reference to larceny shall apply to cases where the property taken is an instrument for the payment of money, an evidence of debt, a public security, a passage ticket completed and ready to be issued or delivered, although never in fact issued or delivered by the maker to a purchaser or owner; and to cases where the thing taken is a fixture, or part of the realty, or any growing tree, plant, or produce, and is severed at the time of taking, in the same manner as if the thing had been severed by another person at a previous time.—R. L. 1905, § 5084.

§ 1294. **Dogs personal property, when.**—Dogs are hereby declared to be personal property within the meaning of Part IV of the Revised Laws.—R. L. 1905, § 5085.

§ 1295. **Lost property.**—Every person who shall find lost property under circumstances which give him knowledge or means of inquiry as to the true owner, who shall appropriate such property to his own use, or to the use of another person not entitled thereto, without having first made reasonable effort to find the owner and restore the property to him, shall be guilty of larceny.—R. L. 1905, § 5086.

§ 1296. **Bringing stolen goods into state or another county.**—Every person who, at any place out of the state, shall have stolen the property of another, or received such property knowing it to have been stolen, and shall bring the same into the state, may be tried and punished in the same manner as if such larceny or receiving had been committed within the state, and the offense may be charged to have been committed, and indictment found, and tried, in any county into or through which the stolen property shall have been brought; and every person who, at any place in the state, shall have taken the property of another, or received such property knowing it to have been stolen, and brought the same into any other county, shall be guilty of the larceny of the same in any county into or through which such stolen property shall have been brought, and may be indicted and tried in any such county.—R. L. 1905, § 5087.

§ 1297. **Conversion by trustee.**—Every person acting as executor, administrator, committee, guardian, receiver, collector, or trustee of any description, appointed by a deed, will, or other instrument, or by an order or judgment of a court or officer, who shall secrete, withhold, or otherwise appropriate to his own use, or that of any person other than the true owner or person entitled thereto, any money, goods, thing in action, security, evidence of debt or of property, or other valuable thing, or any proceeds thereof, in his possession or custody by virtue of his office, employment, or appointment, shall be guilty of grand or petit larceny in such degree as in this chapter prescribed with reference to the value of such property.—R. L. 1905, § 5088.

§ 1298. **Verbal false pretense.**—A purchase of property by means of a false pretense is not criminal where the false pretense relates to the purchaser's means or ability to pay, unless such pretense shall be made in writing and signed by the party to be charged.—R. L. 1905, § 5089.

§ 1299. **Value of evidence of debt, how ascertained.**—Whenever the thing stolen is a written instrument, being an evidence of debt, other than a public or corporate certificate, scrip, bond, or security having a

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market value, or being the transfer of or evidence of title to any property, or of the creating, releasing, or discharging of any demand, right, or obligation, the amount of money due thereupon or secured to be paid thereby and remaining unsatisfied, or which in any contingency might be collected thereupon or thereby, or the value of the property transferred or affected, or the title to which is shown thereby, or the sum which might be recovered for the want thereof, as the case may be, shall be deemed the value of the thing stolen. If the thing stolen be a ticket, paper, or other writing entitling or purporting to entitle the holder or proprietor thereof to a passage upon a railway car, vessel, or other public conveyance, the price at which a ticket entitling a person to a like passage is usually sold shall be deemed its value. In every case not otherwise regulated by statute, the market value of the thing stolen shall be deemed its value.—R. L. 1905, § 5090.

§ 1300. **Claim of title, when ground of defense.**—Upon an indictment for larceny it shall be sufficient defense that the property was appropriated openly and avowedly, under a claim of title preferred in good faith, even though the claim be untenable. But this shall not excuse the retention of the property of another to offset or pay demands held against him.—R. L. 1905, § 5091.

§ 1301. **Intent to restore property.**—The fact that the defendant intended to restore the property stolen shall be no ground of defense, nor shall it be received in mitigation of punishment unless the property shall have been restored before complaint charging the commission of the crime has been made to a magistrate.—R. L. 1905, § 5092.

§ 1302. **Receiving stolen property—Averment and proof.**—Every person who shall buy or receive any stolen property, or any property which has been wrongfully appropriated in such manner as to constitute larceny under this chapter, knowing the same to have been stolen or so dealt with, or who corruptly, for any money, property, reward, promise, or agreement for the same, shall conceal, withhold, or aid in concealing or withholding, any property, knowing the same to have been stolen or appropriated wrongfully in such manner as to constitute larceny under the provisions of this chapter, if such misappropriation has been committed within the state, whether such property was so stolen or misappropriated within or without the state, shall be guilty of criminally receiving such property, and shall be punished by imprisonment in the State Prison for not more than five years, or in a county jail for not more than six months, or by a fine of not more than \$250, or by both. In an indictment under this section it shall not be necessary to aver or prove upon trial that the principal who stole the property has been convicted or is amenable to justice.—R. L. 1905, § 5093.

§ 1303. **Larceny at fires, how punished.**—Every person who shall commit larceny in a building that is on fire, or steal any property removed in consequence of an alarm caused by a fire, shall be punished, whenever the value of the property is more than \$100, by imprisonment in the State Prison for not more than five years, or by a fine of not more than \$500; whenever the value of the property is \$100 or less, by imprisonment in the county jail for not more than two years, or by fine of not more than \$200.—R. L. 1905, § 5094.

§ 1304. **Restoration of stolen property—Duty of officers.**—The officer arresting any person charged as principal or accessory in any robbery or larceny shall use reasonable diligence to secure the property alleged to have been stolen, and after seizure shall be answerable therefor while it remains in his hands, and shall annex a schedule thereof to his return of the warrant. Whenever the county attorney shall require such property for use as evidence upon the examination or trial, such officer, upon his demand, shall deliver it to him and take his receipt therefor, after which such county attorney shall be responsible for the same. Upon conviction of the offender, whoever shall hold such property shall turn it over to the owner.—R. L. 1905, § 5095.

VIII.—Extortion or Oppression.

§ 1305. **Extortion defined—How punished.**—Extortion is the obtaining of property from another, with his consent, induced by a wrongful use of force or fear, or under color of official right. Every person who shall induce another, by threat, to do an unlawful injury to the person or property of the one threatened, or to a relative or member of his family, or to accuse him or any of them of any crime, or to expose or impute to him or any of them any deformity or disgrace, or to expose any secret affecting him or any of them; every person who by force or threat shall compel or induce another to make, subscribe, execute, alter, or destroy any valuable security, or instrument, or writing affecting or intended to affect any cause of action or defense, or any property; every person indebted to another for labor, or any agent of any person, co-partnership, or corporation so indebted, who, with intent to secure a discount upon such indebtedness, shall wilfully refuse to pay the same, or falsely deny the amount of validity thereof, or that the same is due; and every person who shall extort any money or other property from another, under circumstances not amounting to robbery, by means of force or any threat hereinbefore mentioned—shall be guilty of extortion, and punished by imprisonment in the State Prison for not more than five years.—R. L. 1905, § 5096.

§ 1306. **Interfering with employee or membership in union.**—It shall be unlawful for any person, company, or corporation, or any agent, officer, or employee thereof, to coerce, require, or influence any person to enter into any agreement, written or verbal, not to join, become, or remain a member of any lawful labor organization or association, as a condition of securing or retaining employment with such person, firm, or corporation. It shall be unlawful for any two or more corporations or employers to combine, agree to combine, or confer together for the purpose of interfering with any person in procuring, or in preventing him from procuring, employment, or to secure the discharge of any employee by threats, promises, circulating blacklists, or any other means whatsoever. It shall be unlawful for any company or corporation, or any agent or employee thereof, to blacklist any discharged employee, or by word or writing seek to prevent, hinder, or restrain a discharged employee, or one who has voluntarily left its employ, from obtaining employment elsewhere. Every person and corporation violating any of the foregoing provisions shall be guilty of a misdemeanor.—R. L. 1905, § 5097.

§ 1307. **Oppression under color of office.**—Every public officer, or person pretending to be such, who, unlawfully and maliciously, under pretense or color of official authority—

1. Shall arrest another or detain him against his will;
2. Seize or levy upon another's property;
3. Dispossess another of any lands or tenements; or
4. Do any other act whereby another person shall be injured in his person, property, or rights—

Commits oppression, and shall be guilty of a gross misdemeanor.—R. L. 1905, § 5098.

§ 1308. **Extortion by public officer.**—Every public officer who shall ask or receive, or agree to receive, a fee or other compensation for his official services, either in excess of that allowed him by statute, or, where no fee or compensation is allowed to him by statute therefor, commits extortion, and shall be guilty of a misdemeanor.—R. L. 1905, § 5099.

§ 1309. **Blackmail.**—Every person who, knowing its contents, and with intent by means thereof to extort or gain any money or other property, or to do or abet or procure any illegal or wrongful act, shall send, deliver, or in any manner cause to be forwarded or received, or who shall make and part with for the purpose of being delivered, any letter or writing, threatening—

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1. To accuse any person of a crime;
2. To do any injury to any person or property;
3. To publish or connive at publishing any libel; or
4. To expose or impute to any person any deformity or disgrace—

Shall be punished by imprisonment in the State Prison for not more than five years.—R. L. 1905, § 5100.

§ 1310. **Written and verbal threats.**—Every person who, knowing the contents thereof, shall send, deliver, or in any manner cause to be sent or received, any letter or other writing, threatening to do any unlawful injury to the person or property of another, or who, under circumstances not amounting to robbery, or an attempt at a robbery, with intent to extort or gain any money or other property, shall verbally make such threat as would be criminal under the preceding sections of this subdivision if made or communicated in writing, shall be guilty of a misdemeanor. And it is not material whether such threat be made of things to be done or omitted by the offender or by any other person.—R. L. 1905, § 5101.

IX.—False personation, etc.

§ 1311. **Falsely personating another.**—Every person who shall falsely personate another, and in such assumed character shall—

1. Marry or pretend to marry or to sustain the marriage relation towards another;
2. Become bail or surety for a party in an action or special proceeding, civil or criminal, before a court or officer authorized to take such bail or surety;
3. Confess a judgment;
4. Subscribe, verify, publish, acknowledge, or prove a written instrument which by law may be recorded, with intent that the same may be delivered or used as true; or
5. Do any other act in the course of any action or proceeding whereby, if it were done by the person falsely personated, such person might in any event become liable to an action or special proceeding, civil or criminal, or to pay a sum of money, or to incur a charge, forfeiture, or penalty, or whereby any benefit might accrue to the offender or to any other person—

Shall be punished by imprisonment in the State Prison for not more than five years; but no indictment can be found for the crime specified in the first clause of this section except upon complaint of the person injured, if living, and within a year after its commission.—R. L. 1905, § 5102.

§ 1312. **Receiving property in false character.**—Every person who shall falsely personate another, and in such assumed character receive any money or property, knowing that it is intended to be delivered to the individual so personated, with intent to convert the same to his own use, or to that of another person who is not entitled thereto, shall be punished in the same manner and to the same extent as for larceny of the money or property so received.—R. L. 1905, § 5103.

§ 1313. **Personating an officer.**—Every person who shall falsely personate a public officer, civil or military, or a policeman, or a private individual having special authority by law to perform an act affecting the rights or interests of another, or who, without authority, shall assume any uniform or badge by which such an officer or person is lawfully distinguished, and in such assumed character shall do an act purporting to be official, whereby another is injured or defrauded, shall be guilty of a gross misdemeanor.—R. L. 1905, § 5104.

§ 1314. **Obtaining signature by false pretenses.**—Every person who, with intent to cheat or defraud another, shall designedly, by color or aid of a false token or writing or other false pretense, obtain the signature of any person to a written instrument, shall be punished by imprisonment in the State Prison for not more than three years, or in a

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county jail for not more than one year, or by a fine of not more than three times the value of the money or property affected or obtained thereby, or by both.—R. L. 1905, § 5105.

§ 1315. **False representation concerning titles.**—Every person who shall falsely and fraudulently represent that he is the owner of any parcel or tract of land to which he has no title, and execute a deed of the same, with intent to defraud any other person, shall be punished by imprisonment in the State Prison for not more than two years, nor less than six months.—R. L. 1905, § 5106.

§ 1316. **Obtaining employment by false letter or certificate.**—Every person who shall obtain employment, or appointment to any office or place of trust, by color or aid of any false or forged letter or certificate of recommendation, shall be guilty of a misdemeanor.—R. L. 1905, § 5107.

§ 1317. **Removing property from mortgaged land.**—Every mortgagor or other person who shall remove any building, fixture, or fence situate or being upon any real estate on which a mortgage or mechanic's lien exists, either before or after the foreclosure of such mortgage or lien, to the prejudice of the holder thereof, with intent to impair or lessen the value of such mortgage or lien, without first having obtained the consent of the person owning or holding the same, shall be punished by imprisonment in the county jail for not more than six months, or by fine of not more than \$500, or by both.—R. L. 1905, § 5108.

§ 1318. **Selling or concealing mortgaged property.**—Every person who, with intent to place mortgaged personal property beyond the reach of the mortgagee or his assigns, shall remove or conceal, or aid or abet in removing or concealing, any such property, and any mortgagor of such property who shall assent to or knowingly suffer such removal or concealment, or, at any time before the debt secured by a chattel mortgage has been fully paid, shall sell, convey, or in any manner dispose of the personal property so mortgaged, or any part thereof, without the written consent of the mortgagee or his assigns, or without informing the person to whom he shall sell, convey, or dispose of the same that it is mortgaged, and the true amount then due on the debt secured by such mortgage, shall be punished by imprisonment in the State Prison or county jail for not more than one year, or by fine of not more than \$500.—R. L. 1905, § 5109.

§ 1319. **Requirements of indictment.**—In any prosecution under the preceding section, it shall be a sufficient allegation and description of the mortgage and the mortgaging of personal property to state that such property was duly mortgaged by a certain chattel mortgage, giving the date thereof and the names of the mortgagor and mortgagee.—R. L. 1905, § 5110.

§ 1320. **Selling, etc., borrowed property.**—Every person who, without the consent of the owner thereof, shall sell, pledge, pawn, or otherwise dispose of any property which he has borrowed or hired from the owner, shall be guilty of a misdemeanor. But this shall not apply to a person leasing or lending property for a time not exceeding that for which the same was hired or lent to himself.—R. L. 1905, § 5111.

X.—Fraudulent Injury of Vessels.

§ 1321. **Wilful destruction of vessel.**—Every person who shall wreck, burn, sink, scuttle, or otherwise injure or destroy a vessel or its cargo, or wilfully permit the same to be done, with intent to prejudice or defraud an insurer or any other person, or who shall fit out any vessel, or shall load any cargo on board thereof, with intent to permit or cause the same to be wrecked, sunk, or otherwise injured or destroyed, and thereby defraud or prejudice an insurer or other person, shall be punished by imprisonment in the State Prison for not more than five years.—R. L. 1905, § 5112.

§ 1322. **Making false manifest, invoice, etc.**—Every person who shall prepare, make, or subscribe a false or fraudulent manifest, invoice, bill

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of lading, ship's register, or protest, with intent to defraud another, shall be punished by imprisonment in the State Prison for not more than three years, or by a fine of not more than \$1,000, or by both.—R. L. 1905, § 5113.

§ 1323. **Fraudulent destruction of insured property.**—Every person who, with intent to defraud or prejudice the insurer thereof, shall wilfully burn or in any manner injure or destroy property not specified or included hereinbefore in this subdivision, which is insured at the time against loss or damage by fire or any other casualty, under such circumstances that the offense is not arson in any of its degrees, shall be punished by imprisonment in the State Prison for not more than five years or by a fine of not more than \$500, or by both.—R. L. 1905, § 5114.

XI.—False Weights and Measures.

§ 1324. **Using false weights and measures.**—Every person who shall injure or defraud another by using, with knowledge that the same is false, a false weight, measure, or other apparatus for determining the quantity of any commodity or article of merchandise, or by knowingly delivering less than the quantity he represents; or who shall retain in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it, or permit it to be used, in violation of the foregoing provisions of this section; or who shall knowingly mark or stamp false or short weights or false tare on any cask or package, or knowingly sell or offer for sale any cask or package so marked—shall be guilty of a misdemeanor.—R. L. 1905, § 5115.

XII.—Fraud in the management of corporations.

§ 1325. **Fraud in stock subscriptions.**—Every person who shall sign the name of a fictitious person to any subscription for, or agreement to take, stock in any corporation existing or proposed, and every person who shall sign to any subscription or agreement the name of any person, knowing that such person does not intend in good faith to comply with the terms thereof, or under any understanding or agreement that the terms of such subscription or agreement are not to be complied with or enforced, shall be guilty of a gross misdemeanor.—R. L. 1905, § 5116.

§ 1326. **Fraudulent issue of stock, scrip, etc.**—Every officer, agent, or other person in the service of any joint-stock company or corporation, domestic or foreign, who wilfully and knowingly, with intent to defraud, shall—

1. Sell, pledge, or issue, or cause to be sold, pledged, or issued, or sign or execute, or cause to be signed or executed, with intent to sell, pledge, or issue, or to cause to be sold, pledged, or issued, any certificate or instrument purporting to be a certificate or evidence of the ownership of any share or shares of such company or corporation, or any bond or evidence of debt or writing purporting to be a bond or evidence of debt of such company or corporation, without being first duly authorized by such company or corporation, or contrary to the charter or laws under which such corporation or company exists, or in excess of the power of such company or corporation, or of the limit imposed by law or otherwise upon its power to create or issue stock or evidence of debt; or

2. Reissue, sell, pledge, or dispose of, or cause to be reissued, sold, pledged, or disposed of, any surrendered or cancelled certificates or other evidence of the transfer or ownership of any such share or shares—

Shall be punished by imprisonment in the State Prison for not less than three nor more than seven years, or by fine of not more than \$3,000, or by both.—R. L. 1905, § 5117.

§ 1327. **Receiving deposit in insolvent banks.**—Every officer, director, stockholder, cashier, teller, manager, member, messenger, clerk, person, party, or agent of any bank, banking corporation, association or firm, banking house, savings bank, banking exchange, brokerage deposit com-

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pany and private bank, and every person, company, and corporation engaged in whole or in part in banking, brokerage, exchange, or deposit business in any way, who shall accept or receive on deposit in such bank or banking institution as aforesaid, with or without interest, from any person, any money, bank bills, or notes, or certificates or currency, or other notes, checks, bills, drafts, or paper circulating as money, when he knows, or has good reason to know, that such person, bank, banking corporation, association or firm, banking house, savings bank, banking exchange, brokerage deposit company or private bank as aforesaid is unsafe or insolvent, and every person knowing such insolvency or unsafe condition who shall be accessory to, or permit, or connive at the accepting or receiving on deposit therein or thereby any such deposits as aforesaid, shall be guilty of felony, and punished by imprisonment in the State Prison for not less than one nor more than ten years, or by fine of not less than \$500 or more than \$10,000.—R. L. 1905, § 5118.

§ 1328. **Frauds in keeping accounts, etc.**—Every director, officer, or agent of any corporation or joint-stock association, who shall knowingly receive or possess himself of any property of such corporation or association, otherwise than in payment of a just demand, and, with intent to defraud, shall omit to make, or to cause or direct to be made, a full and true entry thereof in the books or accounts of such corporation or association, and every director, officer, agent, or member of any corporation or joint-stock association who, with intent to defraud, shall destroy, alter, mutilate, or falsify any of the books, papers, writings, or securities belonging to such corporation or association, or shall make, or concur in the making of, any false entry, or shall omit or concur in the omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, shall be punished by imprisonment in the State Prison for not more than ten years, or in a county jail for not more than one year, or by a fine of not more than \$500, or by both.—R. L. 1905, § 5119.

§ 1329. **False reports of corporations.**—Every director, officer, or agent of any corporation or joint-stock association who shall knowingly concur in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition, containing any material statement which is false, other than such as are elsewhere in the Revised Laws specially made punishable, shall be guilty of a misdemeanor.—R. L. 1905, § 5120.

XIII.—Fraudulent Issue of Documents of Title to Merchandise.

§ 1330. **Fictitious bills of lading.**—Every master, owner, or agent of any vessel, and every officer or agent of any railway, express, or transportation company, or other carrier, who shall deliver any bill of lading, receipt, or other voucher by which it shall appear that merchandise of any kind has been shipped on board a vessel, or delivered to a railway, express, or transportation company, or other carrier, unless the same has been so shipped or delivered, and shall be at the time actually under the control of such carrier, or the master, owner, or agent of such vessel, or officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt, or voucher, shall be punished by imprisonment in a county jail for not more than one year, or by a fine of not more than \$1,000, or by both.—R. L. 1905, § 5121.

§ 1331. **Fictitious warehouse receipts.**—Every person carrying on the business of a warehouseman, wharfinger, or other depositary of property, who shall issue any receipt, bill of lading, or other voucher for grain or merchandise of any kind which has not been actually received upon the premises of such person, and is not under his actual control at the time of issuing such instrument, whether the same shall be issued to a person as owner, or as security for any indebtedness, shall be punished by imprisonment in a county jail for not more than one year, or by fine of not more than \$1,000, or by both; but no person shall be convicted under this or the preceding section for the reason that the contents of

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any barrel, box, case, cask, or other vessel or package mentioned in the bill of lading, receipt, or other voucher did not correspond with the description contained in such instrument, if such description corresponds substantially with the mark, label, or brand upon the outside of such vessel or package, unless it appears that the defendant knew that such marks, labels, or brands were untrue.—R. L. 1905, § 5122.

§ 1332. **Duplicate receipts—Selling stored property, etc.**—Every person mentioned in the two preceding sections who shall issue any second or duplicate receipt or voucher of a kind specified in said sections, while a former receipt or voucher for the grain or merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "Duplicate," in a plain and legible manner, and every such person who shall sell or pledge any merchandise for which a bill of lading, receipt, or voucher has been issued by him, without the consent thereto in writing of the person holding such bill, receipt, or voucher, shall be punished by imprisonment in a county jail for not more than one year, or by fine of not more than \$1,000, or by both.—R. L. 1905, § 5123.

XIV.—Malicious Mischief and Other Injuries to Property.

§ 1333. **Injuries to railways, etc.**—Every person who—

1. Shall displace, remove, injure, or destroy a rail, sleeper, switch, bridge, viaduct, culvert, embankment, or structure, or any part thereof, attached or appertaining to or connected with a railway whether operated by steam, electricity, or any other motive power;

2. Shall place any obstruction upon the track of such a railway; or

3. Shall wilfully discharge a loaded firearm or project or throw a stone or other missile, at a railway train, locomotive, car, or vehicle standing or moving upon a railway—

Shall be punished as follows:

- a. If thereby the safety of any person is endangered, by imprisonment in the State Prison for not more than ten years;

- b. In every other case, by imprisonment in the State Prison for not more than three years, or by fine of not more than \$250, or by both.—R. L. 1905, § 5124.

§ 1334. **Endangering life and property by explosives.**—Every person who shall place gunpowder or any other explosive substance in, upon, under, against, or near to any building, car, vessel, or structure, with intent to destroy, throw down, or injure the whole or any part thereof, under such circumstances that, if the intent should be accomplished, human life or safety would thereby be endangered, although no damage be actually done, shall be guilty of a felony. Every person who shall unlawfully and maliciously, by the explosion of gunpowder or other explosive substance, destroy or damage any building or vessel, shall be punished as follows:

1. If the life or safety of a human being is endangered, by imprisonment in the State Prison for not more than ten years;

2. In every other case, by imprisonment in the State Prison for not more than five years.—R. L. 1905, § 5125.

§ 1335. **Burning growing crops, etc.**—Every person who shall wilfully burn or set fire to any grain, grass, growing crop, standing timber, or to any building, fixture, or appurtenance to real property of another, under circumstances not amounting to arson in any degree, shall be punished by imprisonment in a county jail for not more than one year.—R. L. 1905, § 5126.

§ 1336. **False signals for vessel, etc.**—Every person who, with intent to endanger a vessel, railway engine, or railway train, shall show, mask, extinguish, alter, or remove a light or signal, or exhibit any false light or signal, shall be punished by imprisonment in the State Prison for not more than ten years.—R. L. 1905, § 5127.

§ 1337. **Injury to United States lights.**—Every person who shall wilfully break, injure, deface, or destroy any lighthouse station, post, plat-

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form, steps, lamps, or other structure pertaining to such lighthouse station, the same being the property of the United States, or shall extinguish any light erected by the United States upon or along the navigable waters of this state, to aid in the navigation thereof, in case no punishment is provided therefor by the laws of the United States, shall be punished as follows:

1. Whenever such act is done with intent to endanger the safety of any vessel navigating said waters, or to jeopardize the safety of any person or property in or upon any such vessel, by imprisonment in the State Prison for not more than five years;

2. In all other cases, by imprisonment in the county jail for not more than one year, or by fine of not more than \$100, or by both.—R. L. 1905, § 5128.

§ 1338. **Buoys or beacons—Mooring to—Injuring.**—Every person who shall moor any vessel, boat, skiff, barge, scow, raft, or part of a raft, to any buoy or beacon placed in the navigable waters of the state, or in any bay or river thereof, by authority of the United States, or shall in any manner hang on, with any vessel, boat, skiff, barge, scow, raft, or part of a raft, to any such buoy or beacon, or shall wilfully remove, damage, or destroy any such buoy or beacon, or shall cut down, remove, damage, or destroy any beacon erected on land in this state by the authority of the United States, shall for every such offense be punished by a fine of not less than \$100 nor more than \$200, or by imprisonment in the county jail not less than one nor more than six months, or by both. One-half of all fines collected under this and the preceding section shall be paid to the informer, and the other half into the common school fund of the county where conviction is had.—R. L. 1905, § 5129.

§ 1339. **Injuring highways, etc.**—Every person who shall wilfully or maliciously displace, remove, injure, or destroy—

1. A highway, or a private way laid out by authority of law, or a bridge upon such public or private way;

2. A pile or other material fixed in the ground, and used for securing any bank or dam of any river or other water, or any dock, quay, jetty, or lock;

3. A buoy or beacon lawfully placed in any waters within the state;

4. A tree, rock, post, or other monument which has been erected or marked for the purpose of designating a point in the boundary of the state, of a county, city, village, town, or of a farm, tract, or lot of land, or any mark or inscription thereon;

5. A mileboard, milestone, or guidepost erected upon a highway, or any inscription thereon;

6. A line of telegraph or telephone, or any part thereof, or any appurtenance or apparatus connected with the working of any magnetic or electric telegraph or telephone, or the sending or conveyance of messages thereby;

7. A pipe or main for conducting gas or water, or any works erected for supplying buildings with gas or water, or any appurtenance or appendage connected therewith;

8. A sewer or drain, or a pipe or main connected therewith or forming part thereof; or

9. Who shall destroy, or damage with intent to destroy or render useless, any engine, machine, tool, or implement intended for use in trade or husbandry—

Shall be guilty of a misdemeanor.—R. L. 1905, § 5130.

§ 1340. **Interfering with dam, etc.**—Every person who shall wilfully or maliciously displace, remove, injure, or destroy any pier, boom, or dam lawfully erected or maintained upon, in, or across any water within the state, or any stream forming a boundary thereof, or shall hoist any gate in or about such dam, shall be guilty of a felony, and punished by imprisonment in the State Prison for not less than one nor more than ten years, or by fine of not less than \$300 nor more than \$1,000.—R. L. 1905, § 5131.

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§ 1341. **Obstructing public levees.**—It shall be unlawful for any houseboat, or other craft not used for the transportation of freight or passengers, to moor to or lay at the public levee of any city, village, or town, on the navigable waters of this state, where it will interfere with, inconvenience, or endanger the landing of any freight, passenger, or towing vessel. Every owner or person in charge of any such boat or craft, upon notice by the police of any city, village, or town, or the owner or agent of any freight, passenger, or towing craft, that it is obstructing the levee, interfering with, inconveniencing, or endangering the landing of any freight, passenger, or towing vessel, shall immediately cause the same to be removed, and, upon neglect or refusal so to do, shall be punished by imprisonment in the county jail for not more than sixty days, or by a fine of not more than fifty dollars.—R. L. 1905, § 5132.

§ 1342. **Injury of property—Penalty for injury of gardens, trees or products.**—Every person who shall wilfully—

1. Cut down, destroy, or injure any wood or timber standing or growing, or which has been cut down and is lying upon lands of another or of the state;

2. Cut down, girdle, or otherwise injure a fruit, shade, or ornamental tree standing on the lands of another or of the state;

3. Sever from the freehold of another or of the state any produce thereof, or anything attached thereto;

4. Dig, take, or carry away, without lawful authority or consent, from any lot of land in any city or village, or from any lands included within the limits of a street or avenue laid down on the map of such city or village, or otherwise recognized or established, any earth, soil, or stone;

5. Enter, without the consent of the owner or occupant any orchard, fruit garden, vineyard, garden, field or ground whereon is cultivated or growing any fruit or vegetable with intent to take, injure, or destroy anything there grown or growing.

6. Cut down, destroy, or in any way injure any shrub, tree, or vine being or growing within any such orchard, garden, vineyard, or upon any such ground, or any building, framework, or erection thereon. Or,

7. Untie, unfasten or liberate, without authority, the horse or team of another, or lead, ride or drive away, without authority, the horse or team of another, from the place where left by the owner or person in charge thereof. Any person who shall be found guilty of any offense named in subdivisions 1, 2, 3, or 6 of this section shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than two hundred and fifty dollars, or both.

Any person found guilty of any offense named in subdivisions 4, 5 or 7 of this section shall be guilty of a misdemeanor.—R. L. 1905, § 5133, as amended G. L. 1909, Chap. 145.

§ 1343. **Divulging telegram or telephone message—Misdemeanor—Penalty.**—Every person who shall wrongfully obtain or attempt to obtain any knowledge of a telegraphic or telephonic message by connivance with a clerk, operator, messenger or other employee of a telegraph or telephone company, and every clerk, operator, messenger or other employee who shall wilfully divulge to any but the person for whom it was intended the contents of any telephonic message or any telegraphic message intrusted to him for transmission or delivery or the nature thereof, or who shall wilfully refuse or neglect duly to transmit or deliver any such telegraphic message shall be punished by imprisonment in the county jail for not more than six months or by fine of not more than one thousand dollars (\$1,000), or by both.—R. L. 1905, § 5134, as amended G. L. 1907, Chap. 212.

§ 1344. **Opening sealed letters, etc.**—Every person who shall wilfully and without authority open or read, or cause to be opened or read, a sealed letter or telegram, or shall publish the whole or any portion of such a letter or telegram, knowing it to have been opened or read without authority shall be guilty of a misdemeanor.—R. L. 1905, § 5135.

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§ 1345. **Injury to standing crops.**—Every person who shall maliciously injure or destroy any standing crops, grain, cultivated fruits, or vegetables, the property of another, in any case for which punishment has not been otherwise prescribed by statute, shall be guilty of a misdemeanor.—R. L. 1905, § 5136.

§ 1346. **Injury to works of art, etc.**—Every person who, not being the owner thereof, and without lawful authority, shall wilfully injure, disfigure, remove, or destroy a gravestone, monument, work of art, useful or ornamental improvement, shade tree or ornamental plant, whether upon private ground, or upon a road, street, sidewalk, cemetery, or public park or place; or who shall remove from any grave in a cemetery any flowers, memorials, or other tokens of affection, or anything connected therewith; or who shall wilfully mar or deface any building or signboard; or who shall extinguish a lamp, or break, destroy, or remove any lamp or lamppost, or any railing or post erected on a bridge, sidewalk, road, street, court or passage—shall be guilty of a misdemeanor.—R. L. 1905, § 5137.

§ 1347. **Disfigurement of parks, cemeteries, etc.**—That section 6786 of chapter 92-a of the General Statutes of Minnesota for 1894, relating to crimes against property, being section 486 of the penal code of the state of Minnesota, be amended so as to read as follows:

Section 6786. A person who, not being the owner thereof, and without lawful authority, wilfully injures, disfigures, removes or destroys a grave stone, monument, work of art, or useful or ornamental improvement, or any shade tree or ornamental plant, whether situated upon private ground or upon a street, road, or sidewalk, cemetery, or public park or place, or who injures or removes from any grave in a cemetery any flowers, memorials, or other tokens of affection, or other thing connected with them, or who hitches any horse or other animal to any monument, grave stone, tree, or shrub on any cemetery grounds, is guilty of a misdemeanor.—G. L. 1905, Chap. 90.

§ 1348. **Injury to articles in museum.**—Every person who shall maliciously cut, tear, deface, soil, obliterate, break, or destroy a book, map, chart, picture, engraving, statue, coin, model, apparatus, specimen, or other work of literature, or object of art or curiosity, deposited in a public library, gallery, museum, collection, fair, or exhibition, shall be punished by imprisonment in the State Prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than \$500, or by both.—R. L. 1905, § 5138.

§ 1349. **Injury to house of worship, etc.**—Every person who shall wilfully and without authority break, deface, or otherwise injure any house of religious worship, or any part thereof, or any appurtenance thereto, any ornament, musical instrument, articles of silver or plated ware, or other chattels kept therein, for use in connection with religious worship, or who shall wilfully break, deface, or otherwise injure any schoolhouse or appurtenance, or other public building, or who shall wilfully break, deface, or injure any globe, map, or chart, or any other article kept and used in connection with such schoolhouse or other public building, shall be guilty of a gross misdemeanor, and punished as follows:

1. If the value of the property broken, defaced, or injured is thereby diminished by an amount less than \$100, by imprisonment for not more than ninety days, or by fine of not more than \$100, or by both.

2. If the value of such property shall be diminished more than \$100, by imprisonment for not less than six months nor more than two years.

In addition to the punishment herein prescribed, he shall be liable in treble damages for the injury done, to be recovered in a civil action by the owner of the property, or by the public officer having charge thereof.—R. L. 1905, § 5139.

§ 1350. **Coercion.**—Every person who, with intent to compel another to do or abstain from doing an act which such other person has a legal right to do, or abstain from doing, shall wrongfully and unlawfully—

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1. Use violence or inflict injury upon such other person or his family, or a member thereof, or upon his property, or threaten such violence or injury;

2. Deprive any such person of any tool, implement, or clothing, or hinder him in the use thereof; or

3. Attempt to intimidate such person by threats or force—

Shall be guilty of a misdemeanor.—R. L. 1905, § 5140.

§ 1351. **Injury to other property.**—Every person who shall unlawfully and wilfully destroy or injure any real or personal property of another, which is not specially described herein, and where the punishment is not specially prescribed by statute, shall be punished as follows:

1. If the value of the property destroyed, or the diminution in value by injury to the same, shall be less than twenty dollars, by imprisonment in the county jail for not more than three months, or by fine of not more than one hundred dollars.

2. If the value of the property destroyed, or the diminution in value by the injury, shall be twenty dollars or more, by imprisonment in the county jail for not more than one year, or by fine of not more than \$500, or by both.

And in addition to the punishment herein prescribed, he shall be liable in treble damages for the injury done, to be recovered in a civil action by the owner of the property, or the public officer having charge thereof.—R. L. 1905, § 5141.

§ 1352. **Interfering with electrical apparatus.**—Every person who shall wilfully destroy, injure, disconnect, displace, cut, break, deface, ground, or in any way interfere with any pole, cable, or wire legally erected, put up, or strung, or any underground conduit, subway, or cable, or any electrical or other apparatus, lamps, transformer, switch, appliance, instrument, or machinery of any kind used in the construction or operation of any electric or telephone plant, line, or system, or used in the producing, generating, or transmitting of electric light, heat, or power, or who shall aid, agree with, employ, or conspire with any other person to do any of said acts, shall be guilty of a misdemeanor.—R. L. 1905, § 5142.

§ 1353. **Fraudulent appropriation of electricity—Misdemeanor to deposit any other than lawful coin in electric meter.**—Every person who shall wilfully make any connection with any meter, pipe, conduit, wire, line, or other apparatus belonging to any person or company using, or engaged in the manufacture, supply, sale or distribution of, electricity or of electric current, for the purpose of taking, using, or wasting such electricity or electric current, or shall wilfully prevent an electric meter from duly measuring or registering the quantity of electricity supplied, or shall in any way interfere with its proper action or just registration, or shall without the consent of such person or company, willingly divert any electrical current or power of such person or company or in any way wilfully use or cause to be used without the consent of such person or company any electricity manufactured or distributed by such person or company, or shall aid, agree with, employ, or conspire with any other person to do any of said acts, or who shall deposit in any electric meter or other apparatus used by an electric light or telephone company for the pre-payment for current or service any token, article or device, except lawful coin of the United States, for the purpose of fraudulently obtaining such current or service, shall be guilty of misdemeanor.—R. L. 1905, § 5143, as Amended G. L. 1907, Chap. 166.

§ 1354. **Obstructing extinguishment of fire.**—Every person who, within 24 hours prior to or during the burning of a building or other property, shall wilfully and maliciously cut or remove any bell rope or telegraph wire in the vicinity of such building or property, or otherwise prevent an alarm being given, or shall cut, injure, or destroy an engine hose, or other fire apparatus in said vicinity, or shall otherwise wilfully and maliciously prevent or obstruct the extinguishing of any fire, shall be

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punished by imprisonment in the State Prison not more than seven years, or in a county jail for not more than three years, or by fine of not more than \$1,000.—R. L. 1905, § 5144.

§ 1355. **Smoking, where prohibited.**—Every person who shall light a pipe or cigar in, or shall enter with a lighted pipe or cigar, any mill or other building on which is posted in a conspicuous place, or over or near each principal entrance, a notice, in plain, legible characters, stating that no smoking is allowed in such building, and every person who shall deface, destroy, or remove any such notice, shall be guilty of a misdemeanor, and punished for each such offense by a fine of \$10.—R. L. 1905, § 5145.

§ 1356. **Draining meandered lakes, etc.**—Every person who shall drain or cause to be drained, or shall attempt to drain in any manner any lake, pond, or body of water which shall have been meandered and its metes and bounds established by the government of the United States in the survey of public lands, shall be guilty of a gross misdemeanor, and punished by a fine of not less than \$25 nor more than \$5,000. But this shall not prevent the reasonable use of such bodies of water as reservoirs for any milling or manufacturing establishment, for the purpose of driving logs, or supplying any city, village, or town with water, and none of the provisions of this section shall apply to any case where the county board shall drain such body of water under the provisions of law.—R. L. 1905, § 5146.

§ 1357. **Interfering with railway gates, etc.**—Every person who, without lawful authority, shall break down or carry away any part of any fence, bars, or gate at a crossing over any railway track, or plank used for such crossing, or shall destroy or injure any hedge, ditch, or other structure used or intended as a fence to enclose any railway tracks; every person using any gate or bars, or opening the same for any purpose, at any railway crossing, who shall permit any animal to stray upon a railway track or inclosed right of way, or who shall leave such bars down, or gate open, so that animals may stray upon such railway track; and every person who shall lead, drive, or turn upon such track any animal for grazing or other purposes—shall be guilty of a misdemeanor, and punished for each such offense by imprisonment in the county jail for not more than thirty days, or by a fine of not less than \$10 nor more than \$50.—R. L. 1905, § 5147.

§ 1358. **Trespass on railway track.**—Every person, not an employee of a railway company, who, without permission from such company, on foot or with any animal or vehicle, shall enter upon any railway bridge or trestle, or who, without a permit, shall ride, operate, or propel a velocipede, track bicycle, or tricycle on or along the track of any railway, shall be guilty of a misdemeanor.—R. L. 1905, § 5148.

§ 1359. **Injury to buildings.**—Every person who shall in any manner wilfully damage any building or part thereof, throw any stone or other missile at or break any window therein, or who shall aid, counsel, hire, or procure any person so to do, shall be guilty of a misdemeanor.—R. L. 1905, § 5149.

§ 1360. **Injury to baggage.**—Every person employed by a railway or other corporation, every express agent, stage driver, drayman, hackman, or other person who shall handle, remove, or take care of trunks, valises, boxes, packages, or other baggage, who, while handling, loading, transporting, unloading, delivering, or storing the same, shall wilfully, wantonly or carelessly break, injure, or destroy the same, or any part thereof, shall be guilty of a misdemeanor.—R. L. 1905, § 5150.

TITLE X.—CRUELTY TO ANIMALS.

§ 1361. **Words defined.**—The word "animal" shall include every living creature except the human race; the word "torture" or "cruelty," every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death shall be caused or permitted. The term "impure and

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unwholesome milk" shall include all milk obtained from animals in a diseased or unhealthy condition, or fed on distillery waste, usually called "swill," or upon any substance in a state of putrefaction or fermentation.—R. L. 1905, § 5151.

§ 1362. **Overworking animals, etc.**—Every person who shall—

1. Overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work the same when unfit for labor, whether belonging to himself or another;

2. Deprive of necessary food, water, or shelter any animal of which he has charge or control;

3. Keep cows or other animals in any inclosure without wholesome exercise or change of air;

4. Feed cows on food which produces impure or unwholesome milk;

5. Abandon any maimed, sick, infirm, or disabled animal to die in any public place;

6. Allow any such animal to lie in the street, road, or other public place for more than three hours after notice; or

7. Wilfully set on foot, instigate, or in any way further any act of cruelty to animals, or any act tending to produce such cruelty—

Shall be guilty of a misdemeanor.—R. L. 1905, § 5152.

§ 1363. **Cruelty in transportation.**—Every person who shall carry, or cause to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages in which such animals can both stand and lie down during transportation and while awaiting slaughter; every person who shall carry or cause to be carried upon a vehicle or otherwise any live animal having feet or legs tied together, or in any other cruel or inhuman manner; and every person or corporation engaged in transporting live stock who shall detain the same in cars or compartments for more than twenty-four hours without food, water, and attendance, or shall permit the same to be crowded together without sufficient space to stand, or so to overlie, crush, wound, or kill each other—shall be guilty of a misdemeanor.—R. L. 1905, § 5153.

§ 1364. **Docking horses—Evidence.**—Every person who shall cut the bony part of a horse's tail for the purpose of docking it, or cause or knowingly permit the same to be done upon premises of which he is owner, lessee, or user, or who shall assist in such cutting, shall be punished by imprisonment in the county jail for not less than thirty nor more than ninety days, or by a fine of not less than \$25 nor more than \$100. Whenever a horse shall be found so cut, and the wound resulting unhealed, upon the premises or in the custody of any person, such fact shall constitute prima facie evidence that the offense was committed by him. All fines resulting from complaint made by an officer or agent of any society of this state for the prevention of cruelty to animals, for any offense specified in this section, shall be paid to the society whose officer or agent made the complaint.—R. L. 1905, § 5154.

§ 1365. **Clipped horses, etc.**—Every person having the custody of any animal which shall have had its hair removed by clipping or shearing, who, within sixty days after such clipping or shearing, and between the 1st day of November and the 1st day of May, shall cause or permit such animal to stand on a road, street, or other unsheltered place, without being blanketed, shall be guilty of a misdemeanor.—R. L. 1905, § 5155.

§ 1366. **Injury to birds.**—Every person who shall in any manner wantonly maim, kill, or destroy any brown thrush, bluebird, martin, swallow, wren, catbird, robin, peewee, meadow lark, or other insect-devouring bird of any kind or name whatsoever or who shall wantonly destroy the nests or eggs of any such bird, shall be guilty of a misdemeanor, and punished by a fine of not less than \$1 nor more than \$15.—R. L. 1905, § 5156.

§ 1367. **Protection of pigeons—Antwerp or homing—Distinguishing mark of owner.**—No person shall take, capture, molest or in any way interfere with any Antwerp, or homing or carrier pigeon if it have the

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name of its owner stamped upon its wing or tail, or wear a ring or seamless leg band with its registered number stamped thereon, or have any other distinguishing mark; nor shall any person remove any such distinguishing mark from any such pigeon.—G. L. 1905, Chap. 56, § 1.

§ 1368. Any person who shall violate any provision of this act shall be guilty of a misdemeanor.—G. L. 1905, Chap. 56, § 2.

§ 1369. **Poisoning animals.**—Every person who shall unjustifiably administer or permit to be administered any poisonous or noxious drug or other substance to any animal, or who shall expose any such drug or other substance, with intent that the same shall be taken by any animal, either his own or the property of another, shall be guilty of a gross misdemeanor, and punished by imprisonment in the State Prison not exceeding two years, or in a county jail not exceeding six months, or by a fine not exceeding \$500, or by both such fine and imprisonment.—R. L. 1905, § 5157.

§ 1370. **Wanton poisoning of animals—Penalty.**—That section 496 of the penal code as amended by section five (5), chapter 209 of the General Laws of 1889, the same being section 6796 of the Statutes of Minnesota for the year 1894, be and the same is hereby amended so as to read as follows:

Sec. 496. Any person who unjustifiably administers any poisonous, or noxious drug or substance to any animal, or procures or permits the same to be done, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by any animal, whether such animal be the property of himself or another, is punishable by imprisonment in the State Prison not exceeding two years or in a county jail not exceeding six months or by a fine not exceeding five hundred (\$500) dollars, or by both such fine and imprisonment.—G. L. 1905, Chap. 53, § 1.

§ 1371. **Not retroactive.**—This act shall take effect and be in force from and after its passage; provided, that the provision of this act shall not apply to offenses committed before this act takes effect, and as to all such offenses the law in force at the time they were committed shall continue and remain in force the same as if this act had not been passed.—G. L. 1905, Chap. 53, § 2.

§ 1372. **Cock-fights—Dog-fights, etc.**—Every person who shall engage in, be employed at, aid, or abet cock-fighting, dog-fighting, bear-baiting, pitting one animal against another of the same or a different kind, or any other similar cruelty to animals; or who shall receive money for the admission of any person to any place used, or about to be used, for any such purpose, or shall wilfully permit any one to enter or use for any such purpose premises of which he is the owner, agent, or occupant; and every person who shall use, train, or possess a dog or other animal for the purpose of seizing, detaining, or maltreating any domestic animal—shall be punished by imprisonment in the county jail for not less than ten nor more than ninety days, or by fine of not less than \$5 nor more than \$100. Every person who shall knowingly purchase a ticket of admission to any such place, be present at or witness such spectacle, shall be deemed an aider and abettor.—R. L. 1905, § 5158.

§ 1373. **Animal with infectious disease.**—Every owner or person having charge of any animal, knowing the same to have any infectious or contagious disease, or to have recently been exposed thereto, who shall sell or barter the same, or knowingly permit such animal to run at large or come into contact with any other animal, or with another person without his knowledge and permission, shall be punished by imprisonment in the county jail for not more than thirty days, or by fine of not less than \$20 nor more than \$100.—R. L. 1905, § 5159.

§ 1374. **Exposure of animals—Duties of Officers.**—Any sheriff, constable, village marshal, police officer or any agent of the Minnesota or other societies for the prevention of cruelty, may remove, shelter, and care for any horse or other animal found exposed to the weather and not properly blanketed, or remaining more than one hour without attention

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in cold or inclement weather, or not properly fed and watered, or provided with suitable food and drink, and when necessary, may deliver such animal to another person to be so sheltered and cared for, and furnished with suitable food and drink; but in all cases the owner, if known, shall be immediately notified, and such officer, or the person having possession of the animal, shall have a lien thereon for its care and keeping and the reasonable value of the food and drink furnished and the expenses of such notice. If the owner or custodian be unknown, and cannot by reasonable effort be ascertained, or shall not, within five days after notice redeem such animal by paying the expenses incurred as aforesaid, it may be treated as an estray, and be dealt with as such.—R. L. 1905, § 5160, as amended G. L. 1907, Chap. 398.

§ 1375. **Punishment for conviction for drunkenness.**—Every person who becomes intoxicated by voluntarily drinking intoxicating liquors shall be guilty of the crime of drunkenness, and punished as follows: For the first offense, by imprisonment in the county jail for not more than forty days, or by a fine of not more than forty dollars; for the second offense, by imprisonment for not more than sixty days, or by a fine of not more than sixty dollars; for the third and all subsequent offenses, by imprisonment for not less than sixty days nor more than three months; provided that the court may in its discretion, after conviction, for the first or second offense suspend sentence during the good behavior of the accused, but if he shall again transgress within a period of six months thereafter, he shall again be brought before the court and shall be punished by a term of imprisonment as provided for in this section.—R. L. 1905, § 5161, as amended G. L. 1907, Chap. 208.

§ 1376. **Opium joints.**—Every person who shall open and maintain, to be resorted to by other persons, any place where opium or any of its preparations shall be sold or given away to be smoked or used therein, or who at such place shall sell or give away opium or its preparations to be there smoked or otherwise used, and every person who shall visit or resort to any such place for the purpose of smoking or using opium or its preparations, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not more than six months, or by a fine of not more than \$500, or by both.—R. L. 1905, § 5162.

§ 1377. **Defining vagrants and punishment prescribed.**—The following persons are vagrants:

1. A person, who, being an habitual drunkard, abandons, neglects or refuses to aid in the support of his family.

2. A person who has contracted an infectious or other disease in the practice of drunkenness or debauchery, requiring charitable aid to restore him to health.

3. Every male person who lives wholly or in part on the earnings of prostitution, or who in any public place solicits for immoral purposes.

A male person who lives with or is habitually in the company of a prostitute and has no visible means of support, shall be deemed to be living on the earnings of prostitution.

4. A common prostitute who shall be found wandering about the streets, or loitering in or about any restaurant, lodging house, saloon, or place where intoxicating liquors are sold.

5. Every female who shall be found wandering about the streets and addressing male persons for the purpose of soliciting the commission of any lewd, indecent or unlawful act, or for the purpose of enticing any male person into a house of prostitution or assignation, bedhouse, room, or other place for any unlawful purpose.

6. Fortune tellers, and such other like imposters.

7. A person known to be a pickpocket, thief, burglar, "yeggman" or "confidence man," and having no visible or lawful means of support, when found loitering around any steamboat landing, railroad depot, railroad yard, banking institution, broker's office, place of public amusement, hotel, auction room, store, shop, or crowded thoroughfare, car or omnibus, or at any public gathering or assembly.

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Provided, however, that this act shall not apply to any such person, unless he has been convicted of the offense which would make him known as such person, and shall not apply to any person who has been in prison for such offense, who, after being released from such imprisonment has been engaged in lawful employment, and shall not in any case apply to any such person until more than thirty days have elapsed since being released from such imprisonment.

8. A person engaged in practicing or attempting any trick or device to procure money or other thing of value, if such trick or device is made a public offense by any law of this state.

Every such person shall upon conviction thereof be punished by imprisonment not exceeding ninety (90) days, or by a fine not exceeding one hundred dollars (\$100.00).

G. L. 1909, Chap. 487.

§ 1378. **Soliciting prohibited under certain circumstances.**—Any person who shall solicit any boy under the age of eighteen years to visit a house of ill fame or assignation for the purpose of prostitution or sexual intercourse, or shall direct or accompany such boy to any such house of ill fame or assignation for such purpose, or shall arrange or assist in arranging any meeting for such purpose between any boy under the age of eighteen years and any female of dissolute character or any inmate of any house of ill fame or assignation, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment for not less than six (6) months nor more than five (5) years.—G. L. 1907, Chap. 320, § 1.

§ 1379. **Same.**—Any keeper of any house of ill fame or assignation who shall for any unlawful purpose admit to such house any boy under the age of eighteen years, or any female inmate of any such house of ill fame or assignation who shall cohabit with any boy under the age of eighteen years, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment for not less than eighteen months nor more than seven years.—G. L. 1907, Chap. 320, § 3.

§ 1380. **Adulterated cigarettes.**—Every person who shall manufacture, sell, or give away, or use any cigarette containing any substance deleterious to health, other than tobacco, shall be punished by a fine of not more than \$50, or by imprisonment in the county jail for not more than thirty days.—R. L. 1905, § 5163.

§ 1381. **Manufacture, sale, etc., of cigarettes. cigarette paper, etc., prohibited.**—That it shall be unlawful for any person by himself, clerk, servant, employee, or agent, directly or indirectly upon any pretense or by any device to manufacture, sell, exchange, barter, dispose of or give away, or keep for sale any cigarettes, cigarette paper or cigarette wrappers, or any paper made or prepared for the purpose of being filled with tobacco for smoking and any person violating the provisions of this act shall be guilty of a misdemeanor; provided, that the provisions hereof shall not apply to the sales of jobbers doing an interstate business with customers outside of the state. This act shall take effect and be in force from and after August 1st, 1909.—G. L. 1909, Chap. 194.

§ 1382. **Frauds on innkeepers.**—Every person who shall obtain any food or accommodation at an inn without paying therefor, with intent to defraud the proprietor or manager thereof, or who shall obtain credit at an inn by any false pretense, or who, after obtaining credit or accommodation at an inn, shall abscond and surreptitiously remove his baggage therefrom without paying for such food and accommodation, shall be guilty of a misdemeanor.—R. L. 1905, § 5164.

§ 1383. **Solemnizing unlawful marriages.**—Every minister or magistrate who shall solemnize a marriage when either party thereto is known to him to be under the age of legal consent, or to be an idiot or insane person, or a marriage to which, within his knowledge, a legal impediment exists, shall be guilty of a gross misdemeanor.—R. L. 1905, § 5165.

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§ 1384. **Advertisement soliciting divorce business.**—Every person who shall advertise, print, publish, distribute, or circulate, or cause to be advertised, printed, published, distributed, or circulated, any pamphlet, card, handbill, circular advertisement, printed paper, book, newspaper or notice of any kind, offering to procure or obtain, or to aid in procuring or obtaining, any divorce, or the severance, dissolution, or nullity of any marriage, or offering to engage, appear or act as attorney, counsel, or referee in any suit for divorce, alimony, or the severance, dissolution, or nullity of any marriage, either in this state or elsewhere, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not more than six months, or by fine of not less than \$100 nor more than \$500.—R. L. 1905, § 5156.

§ 1385. **Improper use of insignia.**—Every person who shall wilfully wear the insignia or rosette of the military order of the Loyal Legion of the United States, or the badge or button of the Grand Army of the Republic, or any similitude of either; or who shall wilfully wear any badge, emblem, or insignia pertaining to the order of Masons, Odd Fellows, Knights of Pythias, or any other secret order or society, or any similitude thereof; or who shall use any such badge, button, or insignia to obtain aid or assistance, unless he shall be entitled to so use the same under the constitution, by-laws, rules, and regulations of such order or society—shall be guilty of a misdemeanor, and punished by imprisonment in the county jail for not more than thirty days, or by a fine of not more than \$25, or by both.—R. L. 1905, § 5157.

§ 1386. **Trusts and combinations—Penalty.**—No person or association of persons shall enter into any pool, trust agreement, combination, or understanding whatsoever with any other person or association, corporate or otherwise, in restraint of trade, within this state, or between the people of this or of any other state or country, or which tends in any way or degree to limit, fix, control, maintain, or regulate the price of any article of trade, manufacture, or use, bought and sold within the state or which limits or tends to limit the production of any such article, or which prevents or limits competition in the purchase and sale thereof, or which tends or is designed so to do. Every person violating any provision of this section, or assisting in such violation, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than \$500 nor more than \$5,000, or by imprisonment in the State Prison for not less than three nor more than five years.—R. L. 1905, § 5168.

§ 1387. **Corporations to forfeit franchises.**—Every domestic corporation which shall, directly or indirectly, violate any provision of the preceding section, or which shall in any way assist in carrying out any of the purposes of such illegal pool, trust agreement, combination, or understanding, in addition to the penalties imposed upon the members thereof by said section, shall forfeit all its corporate franchises; and every foreign corporation admitted to transact business in this state, guilty of like conduct, shall thereafter be prohibited from continuing its business therein. The Attorney General and the several county attorneys shall begin and conduct, in the district court, all actions and proceedings necessary to enforce the provisions of this section, and any citizen may do so. Said court, by injunction or restraining order, may prohibit the transaction of business by such corporation pending the trial of such action.—R. L. 1905, § 5169.

§ 1388. **Pool-selling and book-making.**—Every person who shall keep or occupy any room, building, or any part thereof, any booth, tent, or part thereof, or any place upon any public or private grounds, with apparatus, books, blackboard, or other device, appliance, or scheme of whatever kind or description, for the purpose of making, recording, or registering bets or wagers, buying or selling pools or combinations of any sort, upon the results of any trial or contest of skill, speed, or power of endurance of man or beast, bird, or machine, or upon the result of any game or competition, any nomination or appointment or election to or for any office or place whatsoever, political or otherwise; upon any event or hap-

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pening, or pretended event or happening, whether occurring, to occur, or advertised to occur, in or out of the state; every person who shall make, record, or register any such bet or wager, or buy or sell any such pools or combinations upon any such result, event, or happening; every owner, lessee, or occupant of any such building, or part thereof, or place in the state, who shall knowingly permit the same to be used or occupied for any of the aforesaid purposes; every person who shall therein keep, exhibit, or employ, or permit to be kept, exhibited or employed, any books, blackboards, charts, cards, or any other device, apparatus, or scheme whatever, for the purpose of displaying or advertising any such game, competition, race, or political or other contest or event on which bets are to be made, or pools bought or sold, or for the purpose of making, registering, or recording any such bet or wager, or for buying or selling of any such pool or combination; and every person who shall become the custodian or depository, for hire, reward, commission, or compensation in any manner, of any money, property, pools, or things of value whatsoever, in any manner staked, wagered, bet, or pledged upon any such event or result as aforesaid—shall be guilty of a felony, and punished by imprisonment in the State Prison for not less than thirty days nor more than one year, or by a fine of not less than \$1,000, or by both.—R. L. 1905, § 5170.

§ 1389. **Peace officers to be voters.**—Every state or municipal officer who shall appoint, swear in, or allow any person to act as policeman, special policeman, constable, special constable, patrolman, militiaman, or otherwise as a peace officer, for the purpose of bearing arms or maintaining the peace, or as a detective, spy, or secret agent, with authority to bear arms and make arrests, and every person acting in any such capacity before he shall have become a legal voter of the state, shall be guilty of a gross misdemeanor.—R. L. 1905, § 5171.

§ 1390. **Private detectives.**—Every person who shall institute or keep any private detective office for the purpose of keeping or letting out any armed force for hire, and every person, company, or corporation who shall keep or let out any armed force for hire, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not less than three nor more than twelve months, or by fine of not less than \$50 nor more than \$500.—R. L. 1905, § 5172.

§ 1391. **Rights of citizenship.**—Every person who, on his own account, or as a member of a copartnership, or as an officer or member of a corporation, foreign or domestic, shall require or demand of any employee, under any conditions whatsoever, the surrender, in writing or by parol, of any natural right or any right or privilege of citizenship, shall be guilty of a gross misdemeanor. Violations of this section may be prosecuted by the county attorney of any county, or the prosecuting officer of any municipality.—R. L. 1905, § 5173.

§ 1392. **Indians located on reservations—Crimes, etc.**—Every Indian located upon any reservation in this state while outside such reservation shall be subject to all and the same provisions of law, civil and criminal, as citizens or residents; and when outside his reservation without a passport from the superintendent or agent of Indian affairs, or from an officer commanding the nearest military fort, or when found in any place not specified in such passport, or after its expiration, any peace officer may remove him from any lands belonging to white inhabitants and return him to his reservation.—R. L. 1905, § 5174.

§ 1393. **Wilfully poisoning food, etc.**—Every person who shall wilfully mingle poison with any food, drink, or medicine, intended or prepared for the use of a human being, and every person who shall wilfully poison any spring, well, or reservoir of water, shall be punished by imprisonment in the State Prison for not more than ten years, or by a fine of not more than \$500, or by both.—R. L. 1905, § 5175.

§ 1394. **Setting spring guns, etc.**—Whoever shall set a so-called trap or spring gun, pistol, rifle, or other deadly weapon, shall be punished as follows:

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1. If no injury results therefrom to any human being, by imprisonment in the county jail for not less than six months, or by a fine of not more than \$500, or by both;

2. If injuries not fatal result therefrom to any human being, by imprisonment in the State Prison for not more than five years, and

3. If death of any human being results therefrom, by imprisonment in the State Prison for not less than ten nor more than fifteen years.—R. L. 1905, § 5176.

§ 1395. **Obstructing engines, etc., on railways.**—Every person who shall wilfully obstruct any engine or carriage passing upon any railway, so as to endanger the safety of persons in or upon the same, or shall assist or aid therein, shall be punished by imprisonment in the State Prison for not more than twenty years; and every person who shall wilfully do, or cause to be done, any act with intent to endanger the safety of persons in or upon any such engine or carriage, or shall aid or assist therein, shall be punished by imprisonment in the State Prison for not more than five years, or by fine of not less than \$100 nor more than \$500.—R. L. 1905, § 5177.

§ 1396. **Boarding moving engines or cars.**—It shall be unlawful for any person other than a passenger or employee to get on or off, or attempt to get on or off, or to swing on, or hang on from the outside of, any engine or car or any electric motor or street car upon any railway or track, while such engine, car, motor, or street car is in motion, or switching or being switched. Every person who shall violate any of the foregoing provisions shall be punished by a fine of not more than ten dollars, and any sheriff, constable, or police officer finding any person in the act of violating any such provision shall arrest, take before a proper court or magistrate, and make a verified complaint against him for such violation.—R. L. 1905, § 5178.

§ 1397. **Doors of public buildings to swing outward—Violation—Punishment.**—The doors of all theaters, opera houses, public halls, or places used for public entertainments, exhibitions or meetings, which are used exclusively or in part for admission to, or egress from, the same, shall be so hung and arranged as to open outwardly, and, during any exhibition, entertainment, or meeting held therein, shall be kept unlocked and unfastened, and in such condition that, in case of danger or necessity, immediate escape from such building shall not be prevented or delayed. Every owner, agent, or lessee of any such building who shall rent the same or allow it to be used for any of the aforesaid public purposes, without having the doors thereof hung and arranged as hereinbefore provided, shall for each violation of any provision of this section be guilty of a misdemeanor, and be punished by a fine of not less than \$25 nor more than \$100, and in default of payment of fine and costs, shall be confined in the county jail for not less than fifteen nor more than sixty days.—R. L. 1905, § 5179.

§ 1398. **Desecration of flag.**—Every person who, for exhibition or display, shall cause to be placed upon or affixed to any flag, standard, color or ensign of the United States or this state, or upon one purporting to be either of said flags, standards, colors, or ensigns, any inscription, design, device, symbol, name, advertisement, words, characters, marks, or notice whatever; or who shall display or exhibit any such flag, standard, color, or ensign, having upon or affixed to it any such inscription, design, device, symbol, name, advertisement, words, characters, marks, or notice whatever; or who shall publicly mutilate, trample upon, deface, or defy any such flag, standard, color, or ensign—shall be guilty of a misdemeanor; but such flags, standards, colors, or ensigns used in the service of the United States or of this state may have inscriptions, names of actions, words, marks, or symbols placed thereon pursuant to law or authorized regulations.—R. L. 1905, § 5180.

§ 1399. **Games prohibited within one-half mile of memorial exercises**—Saloons closed from 10 a. m. to 3 p. m.—That the desecration of "Me-

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morial Day," the thirtieth (30th) day of May of each year, by the playing of games of ball, cricket, football, and other like games, or by horse racing, bicycle racing, automobile racing, or any other sports calculated to attract attention to such games or sports and away from the memorial character of said day, within one-half mile of the place where memorial exercises are in progress, is hereby prohibited and made unlawful during the hours from 10 o'clock in the forenoon to 3 o'clock in the afternoon of said day, and all saloons and other places where intoxicating liquors are sold, shall be closed on said day between the hours of 10 o'clock in the forenoon and 3 o'clock in the afternoon, in all cities, villages and towns where memorial exercises are held. Any person guilty of a violation of section 1 of this act shall be deemed guilty of a misdemeanor, and punishable accordingly.—G. L. 1907, Chap. 25.

§ 1400. **Attorneys not to defend certain prosecutions.**—Every attorney who shall directly or indirectly advise in relation to, or aid or promote the defense of, any action or proceeding in any court, the prosecution of which shall be carried on, aided, or promoted by any person as county attorney or other public prosecutor with whom such attorney shall be directly or indirectly connected as partner, or who, having himself prosecuted or in any manner aided or promoted any action or proceeding in any court as county attorney or other public prosecutor, shall afterwards, directly or indirectly, advise in relation to, or take any part in, the defense thereof, as attorney or otherwise, or who shall take or receive any valuable consideration from or on behalf of any defendant in any such action, upon any understanding or agreement whatsoever, express or implied, having relation to the defense thereof, shall be guilty of a misdemeanor.—R. L. 1905, § 5181.

§ 1401. **Fraudulently presenting claims to public officers for payment.**—Every person who, with intent to defraud, shall knowingly present, for audit, allowance, or payment, to any officer or board of the state, or of any county, city, town, village, or school district, authorized to audit or allow or to pay bills, claims, or charges, any false or fraudulent claim, bill, account, writing, or voucher, or any bill, account or demand containing false or fraudulent charges, items, or claims, shall be guilty of a felony.—R. L. 1905, § 5182.

§ 1402. **Fraud by bailee of animals, etc.**—Every person who shall obtain from any livery stable the possession or use of a horse or other draft animal or any vehicle without paying therefor, with intent to defraud the keeper, manager, or proprietor thereof, or who shall obtain from such stable the possession or use of any such property by color or aid of any false or fraudulent representation, pretense, token, or writing, or shall obtain credit for such use by color or aid of any false or fraudulent representation, pretense, token, or writing; or who, having hired any such property, shall recklessly, wilfully, wantonly, or by gross negligence injure or destroy, or cause, suffer, allow, or permit the same, or any part thereof, to be injured or destroyed; or who, having hired any horse or other draft animal upon the understanding or agreement that the same shall be ridden or driven a specified distance or to a specified place, shall wilfully and fraudulently ride, drive, or cause, permit, or allow the same to be ridden or driven a longer distance, or to a different place, and shall wilfully and fraudulently represent that the same has not been ridden or driven a longer distance or to a different place than that specified—shall be guilty of a misdemeanor. But this section shall not apply to any case of taking or obtaining the use or possession of the property of another with intent to steal the same, nor where the facts would constitute the crime of larceny.—R. L. 1905, § 5183.

§ 1403. **Picking cranberries out of season.**—Every person who shall pick or gather cranberries, on lands other than his own, before the 1st day of September in any year, shall be punished by a fine of \$10 for each such offense.—R. L. 1905, § 5184.

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§ 1404. **Protection to motormen.**—It shall be unlawful to operate any street car by electricity, steam, or cable, upon or over any street railway, unless the same is so constructed as to protect the motorman or gripman from the inclemency of the weather. Every person or corporation owning or operating any street railway who shall violate the provisions of this section shall be guilty of a gross misdemeanor, and punished by a fine of not less than \$50 for each day of such violation.—R. L. 1905, § 5185.

§ 1405. **Stealing railway tickets, etc.**—If any person in the employ of a railroad or steamboat company shall fraudulently neglect to cancel, or to return to the proper officer or agent of such company, any ticket, coupon, or pass, with the intent to permit the same to be used in fraud of any railroad or steamboat company, or if any person shall steal or fraudulently stamp, print, sign, sell, or put in circulation any such ticket, coupon, or pass, he shall be guilty of a felony, and punished by imprisonment in the State Prison for not more than five years.—R. L. 1905, § 5186.

§ 1406. **Employee obtaining transportation with intent to defraud.**—Every employee who, with intent to defraud, having received transportation from his employer from any point in this state to or in the direction of a place where he has agreed with such employer to perform labor or render services, or who, with intent to defraud, having received the benefit of other pecuniary advancement from the employer under his agreement to perform labor or render services in repayment of the cost of such transportation or amount of such advancement, refuses or neglects to perform such labor or render such services to the full value of the transportation furnished or advancement made, or to repay to such employer such transportation or advancement in money, shall be guilty of a misdemeanor, and punished by a fine of not more than \$25 or by imprisonment for not more than 60 nor less than 10 days. The failure or refusal of any such employee to perform such labor or render such services in accordance with his contract, or pay in money the amount paid for such transportation or such advancement, shall be prima facie evidence of his intent to defraud, and the value of such labor or services shall be determined by the price so agreed to be paid such employee therefor.—R. L. 1905, § 5187.

§ 1407. **Misconduct by hotel runners.**—Any licensed hotel, railroad, steamboat, or restaurant runner who shall annoy or obstruct any person on the public streets shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of \$5; and upon conviction hereunder the license of such runner shall be forfeited.—R. L. 1905, § 5188.

§ 1408. **Fumigated barley and oats to be sold under certain restrictions.**—Any person who shall sell or offer for sale, or for shipment and sale, any barley or other grain, which shall have been subjected to fumigation, or other treatment by sulphur or other material, or to any other chemical process, affecting the color thereof, shall be guilty of a felony, and punished by a fine of not more than five hundred dollars (\$500), or by imprisonment in the State Prison for not more than one year, or by both such fine and imprisonment; and shall also be liable to any person injured in treble damages; provided, that barley and oats may be purified by fumigations, or treatment with sulphur, under such restrictions, rules and regulations as the railroad and warehouse commission shall prescribe for such purpose, and when so purified may be sold and marketed as "Purified Barley" or as "Purified Oats," and not otherwise.—R. L. 1905, § 5189, as amended, G. L. 1907, Chap. 213.

§ 1409. **Maximum toll of custom mill—Violation—Penalty.**—It shall be unlawful for any person owning or operating a custom mill to take a larger proportion than one-eighth as toll for grinding and bolting any wheat or other grain brought as a grist to such mill. Any person violating any provision of this section shall be guilty of a misdemeanor, and be punished by a fine of not less than \$10 nor more than \$100.—R. L. 1905, § 5190.

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§ 1410. **Stealing from cars.**—Every person other than the owner or his agent, or one having charge of a railroad car for the purpose of loading the same, who takes from such car, while in transit, in the yards, or on any siding or track of any railroad in this state any grain or flaxseed, or sweeps any such car, shall be guilty of a misdemeanor. On the trial it shall not be necessary to show that the defendant is not in the employ of the railroad company or acting under its authority while doing the act complained of, but the fact of the sweeping shall be *prima facie* evidence of the violation of this section.—R. L. 1905, § 5191.

§ 1411. **Railway cars obstructing roads and streets.**—No person shall obstruct any public road or street by leaving, placing, keeping, or causing to be left, placed or kept any railway car upon or across the same, or to stop or cause to be stopped any engine or train of cars across any public road or street except for a sufficient time, not exceeding ten minutes, to couple or separate the cars. Whoever violates any provision of this section shall be guilty of a misdemeanor and punished by a fine of not less than \$5 nor more than \$50, and costs of prosecution or by imprisonment in the county jail for not more than 30 days.—R. L. 1905, § 5192.

§ 1412. **Fast driving on bridge—How punished.**—Whoever rides or drives faster than a walk, upon any bridge, at each end of which a conspicuous sign board is placed upon which is printed the following words and figures: “\$10 fine for riding or driving on this bridge faster than a walk,” shall be guilty of a misdemeanor, and punished by a fine of \$10, or imprisonment in the county jail for ten days, for each offense.—R. L. 1905, § 5193.

§ 1413. **Running toll.**—Whenever any person is authorized by law to collect toll for the crossing of any bridge or ferry belonging to him and every person who wilfully runs the toll gate or passes over such bridge or ferry with the intention of avoiding the payment of the prescribed toll, or who refuses to pay such toll when thereto lawfully requested, shall be guilty of a misdemeanor and punished by a fine of \$5. All fines received under the provisions of this and the two preceding sections shall be paid into the treasury of the town where the offense was committed, to be used in repairing the public roads in such town.—R. L. 1905, § 5194.

§ 1414. **Armed association—Penalty.**—It shall not be lawful for any body of men other than the National Guard, troops of the United States, and, with the consent of the governor, Sons of Veterans and cadets of educational institutions where military science is taught, to associate themselves together as a military company with arms, but members of social and benevolent organizations are not prohibited from wearing swords. Any violation of this act shall be a misdemeanor.—R. L. 1905, § 5195.

§ 1415. **Misdemeanor to manufacture or sell certain fire crackers.**—Every person who shall manufacture, use, sell or keep for sale within this state any blank cartridge pistols, blank cartridge revolver or other blank cartridge firearms, blank cartridges, caps containing dynamite, and firecrackers exceeding three inches in length, and exceeding one-half of an inch in diameter, shall be guilty of a misdemeanor.—G. L. 1907, Chap. 28.

TITLE XI.—CRIMINAL PROCEDURE.

I.—Search Warrants.

§ 1416. **When issued.**—Whenever complaint shall be made on oath, to any magistrate authorized to issue warrants in criminal cases, that personal property has been stolen or obtained by false tokens or pretenses, and that the complainant believes that it is concealed in any particular house or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue his warrant to search for such property.—R. L. 1905, § 5196.

§ 1417. **Search for counterfeit coin, obscene books, etc.**—Every such magistrate, when satisfied that there is reasonable cause, may also, upon like sworn complaint, issue search warrants in the following cases: To search for and seize—

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1. Any counterfeit or spurious coin, forged bank notes, and forged instruments, tools, machines, or material prepared or provided for making any of them;

2. Any books, pamphlets, ballads, printed papers, or other things containing obscene language, obscene prints, pictures, figures, or descriptions, manifestly tending to corrupt the morals of youth, and intended to be sold, loaned, circulated, distributed, or introduced into any family, school, or place of education;

3. Any gambling apparatus or implements used, or kept for use, in gambling in any gambling house, or in any building, apartment, or place resorted to for the purpose of gambling.—R. L. 1905, § 5197.

§ 1418. **To whom directed—Contents.**—Every search warrant shall be directed to the sheriff or any constable of the county commanding him to search the house or place where the stolen property or other things for which he shall be required to search, are believed to be concealed, the place, property, or things to be searched for being designated and described in the warrant, and to bring such stolen property or other things when found, and the person in whose possession the same shall be found, before the magistrate issuing the warrant, or some other magistrate or court having cognizance of the case.—R. L. 1905, § 5198.

§ 1419. **Property seized—How kept and disposed of.**—Whenever any officer, in the execution of a search warrant, shall find any stolen property, or seize any other things for which search is allowed by law, the same shall be safely kept by direction of the court or magistrate, so long as may be necessary for the purpose of being produced as evidence on any trial, and then the stolen property shall be returned to the owner thereof, and the other things seized destroyed under the direction of the court or magistrate.—R. L. 1905, § 5199.

II.—Demanding Fugitives From Justice.

§ 1420. **Extradition agents—Appointment—Reports, etc.**—In every case authorized by the constitution and laws of the United States, the governor may appoint an agent, who shall be the sheriff of the county from which the application for extradition shall come, when he can act, to demand of the executive authority of any state or territory any fugitive from justice or any person charged with a felony or other crime in this state; and whenever an application shall be made to the Governor for that purpose, the attorney general, when so required by him, shall forthwith investigate or cause to be investigated by any county attorney the grounds of such application, and report to the Governor all material circumstances which shall come to his knowledge, with an abstract of the evidence, and his opinion as to the expediency of the demand. The accounts of agents so appointed shall in each case be audited by the county board of the county wherein the crime upon which extradition proceedings are based shall be alleged to have been committed, and every such agent shall receive from the treasury of such county \$4 for each calendar day, and the necessary expenses incurred by him in the performance of such duties.—R. L. 1905, § 5200.

§ 1421. **Warrant of extradition, service, etc.**—Whenever a demand shall be made upon the Governor by the executive of any state in any case authorized by the constitution and laws of the United States, for the delivery over of any person charged in such state with treason, felony, or other crime, the attorney general, when required by the Governor, shall forthwith investigate or cause to be investigated by any county attorney the ground of such demand, and report to the Governor all material facts which may come to his knowledge as to the situation and circumstances of the person so demanded, especially whether he is held in custody or under recognizance to answer for any offense against the laws of this state or of the United States, and also whether such demand is made according to law, so that such person ought to be delivered up; and if no-

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tified that such demand is conformable to law, and ought to be complied with, the Governor shall issue his warrant under the seal of the state, authorizing the sheriff or some other designated person of any county in the state, either forthwith, or at a time designated in such warrant, to take and transport the person so demanded to the line of this state, at the expense of the state in whose name such person has been demanded, and there deliver him to the agent of the state making such demand, and shall also by such warrant require the civil officers in this state to afford all needful assistance in the execution thereof. Upon receipt of such warrant, such officer may arrest and retain in his custody the person whose surrender is demanded: but no person arrested on such warrant shall be delivered to the agent designated therein, or to any other person, until he shall have been notified of the demand made for his surrender, and of the nature of the criminal charge made against him, nor until he has had an opportunity to apply for a writ of habeas corpus, if he shall claim such right of the officer making the arrest. Whenever such writ shall be applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the attorney general or the county attorney of the county in which the arrest is made. Every sheriff or other officer making such arrest, who shall deliver over to the agent named in such warrant, or to any other person for extradition, the person so in his custody under such warrant, without having complied with the provisions of this subdivision, shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than \$1,000, or by both.—R. L. 1905, § 5201.

§ 1422. **Fugitive from another state arrested, when.**—Whenever any person shall be found in this state charged with any offense committed in any state, and liable under the constitution and laws of the United States to be delivered over upon the demand of the executive of such state, any court or magistrate authorized to issue warrants in criminal cases may, upon complaint under oath, setting forth the offense and such other matters as shall be necessary to bring the case within the provisions of law, issue a warrant to bring such person before him or some other court or magistrate in the county where he is found.—R. L. 1905, § 5202.

§ 1423. **May give recognizance, when.**—If, upon examination of the person charged, it shall appear to the court or magistrate that there is reasonable cause to believe that the complaint is true, and that such person may be lawfully demanded of the Governor, if the offense is bailable he shall be required to recognize, with sufficient sureties in a reasonable sum, to appear before such court or magistrate at a future day, allowing a reasonable time to obtain the warrant of the executive, and to abide the order of the court or magistrate; and if such person shall not so recognize he shall be committed to prison; and there detained until such day, in like manner as if the offense charged had been committed within this state. If he shall fail to appear according to the condition of his recognizance, he shall be defaulted, and like proceedings had as in case of default in other recognizances; but if the offense be not bailable, he shall be committed to prison, and there detained until the day so appointed for his appearance.—R. L. 1905, § 5203.

§ 1424. **Discharged, when.**—If the person so recognized or committed shall appear before the court or magistrate upon the day ordered, he shall be discharged unless he shall be demanded by some person authorized by the warrant of the executive to receive him, or unless the court or magistrate shall see cause to commit him, or to require him to recognize anew for his appearance on some other day, and if when so ordered he shall not so recognize he shall be committed and detained as provided in the preceding section. Whenever the person so discharged shall be recognized, committed, or discharged, any person authorized by the warrant of the executive may at any time take him into custody, and the same shall be a discharge of the recognizance, if any, and not an escape.—R. L. 1905, § 5204.

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§ 1425. **Complainant liable for expenses.**—The complainant in every such case shall be answerable for the actual costs and charges, and for the support in prison of any person so committed, and at the time of commitment shall advance to the jailer one week's board, and so from week to week, so long as he shall remain in jail, and on failure so to do the jailer may forthwith discharge any such person from custody.—R. L. 1905, § 5205.

§ 1426. **Conveying prisoners through state.**—Any person who has been or shall be convicted of or charged with a crime in any other state, and who shall be lawfully in the custody of any officer of the state where such offense is claimed to have been committed, may be by said officer conveyed through or from this state, for which purpose such officer shall have all the powers in regard to his control or custody that an officer of this state has over a prisoner in his charge.—R. L. 1905, § 5206.

III.—Proceedings to Prevent Crime.

§ 1427. **Conservators of the peace.**—The judges of the several courts of record, in vacation, within their respective districts, as well as in open court, and all justices of the peace, within their respective counties, shall have power to cause all laws made for the preservation of the public peace to be kept, and, in the execution of that power, may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this subdivision.—R. L. 1905, § 5207.

§ 1428. **Complaint to magistrate.**—Whenever complaint shall be made to any such magistrate that any person has threatened to commit an offense against the person or property of another, the magistrate shall examine the complainant, and any witness who may be produced, on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant.—R. L. 1905, § 5208.

§ 1429. **Warrant shall issue, when.**—If, upon examination, it shall appear that there is just cause to fear that any such offense may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it is directed forthwith to apprehend the person complained of, and bring him before such magistrate, or some other magistrate or court having jurisdiction of the cause.—R. L. 1905, § 5209.

§ 1430. **Examination.**—The magistrate before whom any person shall be brought upon charge of having made threats as aforesaid shall, as soon as may be, examine the complainant and witnesses in support of the prosecution, on oath, in the presence of the party charged, in relation to any matters connected with such charge which are deemed pertinent, after which witnesses for the prisoner, if he has any, shall be sworn and examined, and he may be assisted by counsel in such examination, and also in the cross-examination of the witnesses in support of the prosecution.—R. L. 1905, § 5210.

§ 1431. **Recognizance to keep the peace.**—If, upon examination, it shall appear that there is just cause to fear that any such offense will be committed by the party complained of, he shall be required to enter into a recognizance, with sufficient sureties, in such sum as the magistrate directs, to keep the peace toward all the people of this state, and especially toward the persons requiring such security, for such term as the magistrate orders, not exceeding six months; but he shall not be ordered to recognize for his appearance at the district court, unless he is charged with some offense for which he ought to be held to answer to said court. Upon complying with the order of the magistrate, the party complained of shall be discharged.—R. L. 1905, § 5211.

§ 1432. **Party committed, when.**—If the person so ordered to recognize refuses or neglects to comply with such order, the magistrate shall commit him to the county jail during the period for which he was required to give security, or until he so recognizes, stating in the warrant the cause of commitment, with the sum and time for which security was required.—R. L. 1905, § 5212.

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§ 1433. **Discharge—Complainant liable for costs, when.**—If, upon examination, it shall not appear that there is just cause to fear that any such offense will be committed by the party complained of, he shall be forthwith discharged; and if the magistrate deems the complaint malicious, or without probable cause, he shall order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees as for his own debt.—R. L. 1905, § 5213.

§ 1434. **Costs.**—Whenever no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions; but in all cases where a person shall be required to give security to keep the peace or for his good behavior, the magistrate may further order the costs of prosecution, or any part thereof, to be paid by such person, who shall stand committed until such costs are paid or he is otherwise legally discharged.—R. L. 1905, § 5214.

§ 1435. **Appeal.**—Any person aggrieved by the order of any justice of the peace requiring him to recognize as aforesaid may, on giving the security required, appeal to the district court next to be holden in the same county, or that county to which said county is attached for judicial purposes.—R. L. 1905, § 5215.

§ 1436. **Witnesses to recognize.**—The magistrate from whose order an appeal is so taken shall require such witnesses as he may think necessary to support the complaint to recognize for their appearance at the court to which appeal is made.—R. L. 1905, § 5216.

§ 1437. **Proceedings on appeal.**—The court before which such appeal is prosecuted may affirm the order of the justice, or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court thinks proper, and may also make such order in relation to the costs of prosecution as it deems just and reasonable.—R. L. 1905, § 5217.

§ 1438. **Failure to prosecute appeal.**—If any party appealing shall fail to prosecute his appeal, his recognizance shall remain in full force and effect as to any breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.—R. L. 1905, § 5218.

§ 1439. **Discharge on giving security.**—Any person committed for not finding sureties, or refusing to recognize as required by the court or magistrate, may be discharged by any judge or justice of the peace, on giving such security as was required.—R. L. 1905, § 5219.

§ 1440. **Recognizances transmitted to district court.**—Every recognizance taken in pursuance of § 5219 (§1439) shall be transmitted by the magistrate to the district court for the county on or before the first day of the next term, and shall be there filed and recorded by the clerk.—R. L. 1905, § 5220.

§ 1441. **Recognizance without process, when.**—Every person who, in the presence of any court or magistrate, shall make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, or who, in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, and being of good behavior for a term not exceeding six months, and, in case of a refusal, may be committed as before directed.—R. L. 1905, § 5221.

§ 1442. **Carrying dangerous weapons.**—Whoever shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his person, or to his family or property, may, on complaint of any other person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.—R. L. 1905, § 5222.

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§ 1443. **Judgment on recognizance remitted, when.**—Whenever, upon an action brought on any such recognizance, the penalty thereof shall be adjudged forfeited, the court may remit such portion of the penalty, on the petition of any defendant, as the circumstances of the case render just and reasonable.—R. L. 1905, § 5223.

§ 1444. **Surrender of principal—New recognizance.**—Any surety in a recognizance to keep the peace, or for good behavior, or both, shall have authority and right to take and surrender his principal, and, upon such surrender, shall be discharged and exempted from all liability for any act of the principal, subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person so surrendered may recognize anew, with sufficient sureties, before any justice of the peace, for the residue of the term, and thereupon shall be discharged.—R. L. 1905, § 5224.

IV.—Arrests.

§ 1445. **Defined—By whom made—Aiding officer.**—Arrest is the taking of a person into custody that he may be held to answer for a public offense, and may be made—

1. By a peace officer under a warrant;
2. By a peace officer without a warrant;
3. By a private person.

Every person shall aid an officer in the execution of a warrant whenever requested so to do by such officer, who is himself present and acting in its execution.—R. L. 1905, § 5225.

§ 1446. **When made.**—If the offense charged be a felony, arrest may be made on any day and at any time of the day or night; if it be a misdemeanor, arrest shall not be made on Sunday or at night, unless upon the direction of the magistrate endorsed upon the warrant.—R. L. 1905, § 5226.

§ 1447. **How made—Restraint—Show warrant.**—An arrest is made by the actual restraint of the person of the defendant or by his submission to the custody of the officer; but he shall not be subjected to any more restraint than shall be necessary for his arrest and detention, and the officer shall inform the defendant that he is acting under the authority of a warrant, and shall show him the warrant if so required.—R. L. 1905, § 5227.

§ 1448. **Means used.**—If, after notice of intention to arrest defendant, he shall flee or forcibly resist, the officer may use all necessary means to effect his arrest. He may break open an inner or outer door or window of a dwelling house to execute the warrant, if, after notice of his authority and purpose, he shall be refused admittance, or when necessary for his own liberation, or for the purpose of liberating another person who, having entered to make an arrest, shall be detained therein.—R. L. 1905, § 5228.

§ 1449. **Without warrant, when—Break door, etc., when.**—A peace officer may, without warrant, arrest a person:

1. For a public offense committed or attempted in his presence;
2. When the person arrested has committed a felony, although not in his presence;
3. When a felony has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it; or
4. Upon a charge made upon reasonable cause of the commission of a felony by the person arrested.

To make such arrest the officer may break open an outer or inner door or window of a dwelling house, if, after notice of his office and purpose, he shall be refused admittance.—R. L. 1905, § 5229.

§ 1450. **Arrest at night, when—Disclose authority—Exception.**—He may at night, without a warrant, arrest any person whom he has reasonable cause for believing to have committed a felony, and shall be justified in making such arrest, though it shall afterwards appear that no

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felony has been committed; but when so arresting a person without a warrant, the officer shall inform him of his authority and the cause of the arrest, except when he shall be in the actual commission of a public offense, or shall be pursued immediately after an escape.—R. L. 1905, § 5230.

§ 1451. **Arrest by bystander—Magistrate may command arrest, when.**—He may take before a magistrate a person who, being engaged in a breach of the peace, shall be arrested by a bystander and delivered to him; and, whenever a public offense shall be committed in the presence of a magistrate, he may, by written or verbal order, command any person to arrest the offender, and thereupon proceed as if the offender had been brought before him on a warrant of arrest.—R. L. 1905, § 5231.

§ 1452. **Private person may arrest, when.**—A private person may arrest another:

1. For a public offense committed or attempted in his presence;
2. When such person has committed a felony, although not in his presence; or

3. When a felony has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it.—R. L. 1905, § 5232.

§ 1453. **Disclosure of cause—Means used.**—Before making an arrest he shall inform the person to be arrested of the cause thereof and require him to submit, except when he is in the actual commission of the offense or when he shall be arrested on pursuit immediately after its commission. If such person has committed a felony, such private person, after notice of his intention to make the arrest, if he shall be refused admittance, may break open an outer or inner door or window of a dwelling house for the purpose of making the same.—R. L. 1905, § 5233.

§ 1454. **Proceedings by private person making arrest.**—Every private person who shall have arrested another for the commission of a public offense shall, without unnecessary delay, take him before a magistrate or deliver him to a peace officer. If a person arrested shall escape or be rescued, the person from whose custody he has escaped may immediately pursue and retake him, at any time and in any place in the state, and for that purpose, after notice of his intention and refusal of admittance, may break open an outer or inner door or window of a dwelling house.—R. L. 1905, § 5234.

V.—Examination of Offenders—Commitment—Bail.

§ 1455. **Process, by whom issued.**—The judges of the several courts of record, in vacation as well as in term time, court commissioners, and all justices of the peace, are authorized to issue process to carry into effect the provisions of law for the apprehension of persons charged with offenses.—R. L. 1905, § 5235.

§ 1456. **Proceedings on complaint—Warrant.**—Upon complaint made to any such magistrate that a criminal offense has been committed, he shall examine on oath, the complainant and any witnesses who shall appear before him, reduce the complaint to writing, and cause it to be subscribed by the complainant; and, if it shall appear that such offense has been committed, he shall issue a warrant, reciting the substance of the complaint, and requiring the officer to whom it is directed to forthwith bring the accused before him, or some other court or magistrate of the county, to be dealt with according to law, and in such warrant require him to summon the witnesses therein named to appear and give evidence on the examination.—R. L. 1905, § 5236.

§ 1457. **Warrant executed, where.**—If any person against whom a warrant is issued for an alleged offense committed in any county, either before or after the issuing of such warrant, shall escape from or be out of the county, the sheriff or other officer to whom such warrant is directed may pursue and apprehend the party charged, in any county in this state, and for that purpose may command aid, and exercise the same authority, as in his own county.—R. L. 1905, § 5237.

§ 1458. **Offender may give recognizance, when—Duty of magistrate.**—In every case where the offense charged in the warrant shall not be punishable by death or imprisonment in the State Prison, upon request of the person arrested the officer making the arrest shall take him before a magistrate of the county in which the arrest shall be made, for the purpose of entering into a recognizance without trial or examination, and such magistrate may take from him a recognizance with sufficient sureties for his appearance before the court having cognizance of the offense and next holden in such county, and thereupon he shall be liberated. The magistrate taking bail shall certify that fact upon the warrant, and deliver the same, with the recognizance so taken, to the person making the arrest, who shall cause the same to be delivered without unnecessary delay to the clerk of the court before which the accused was recognized to appear; and, on application of the complainant, the magistrate who issued the warrant, or the county attorney, shall cause such witnesses to be summoned as he deems necessary.—R. L. 1905, § 5238.

§ 1459. **Bail refused—Proceedings.**—If the magistrate in the county where the arrest was made shall refuse to bail the person so arrested and brought before him, or if no sufficient bail shall be offered, the person having him in charge shall take him before the magistrate who issued the warrant, or, in his absence, before some other magistrate of the county in which the warrant was issued, to be proceeded with as herein-after directed.—R. L. 1905, § 5239.

§ 1460. **Procedure in case of felony.**—Whenever the offense charged in any warrant is punishable by death or imprisonment in the State Prison, the officer making the arrest in some other county shall convey the prisoner to the county where the warrant issued, and take him before the magistrate who issued the same, or, in case of his inability to attend, before some other magistrate of the same county, and also deliver to such magistrate the warrant, with the proper return thereon signed by him.—R. L. 1905, § 5240.

§ 1461. **Examination adjourned—Recognizance.**—Every magistrate may adjourn an examination or trial pending before himself from time to time as occasion shall require, not exceeding ten days at one time, without the consent of the accused, and at the same or a different place in the county as he shall think proper; and in such case, if the person is charged with an offense not bailable, he shall be committed in the meantime, otherwise he may be recognized in a sum and with sureties satisfactory to the magistrate for his appearance for further examination, and for want of such recognizance he shall be committed; but in a case where a person shall be brought before the judge of a municipal court charged with a misdemeanor, such court may receive cash bail for his appearance in an amount not more than double the highest cash fine which can be imposed for the offense, and within said limit he may from time to time thereafter increase or reduce such sum.—R. L. 1905, § 5241.

§ 1462. **Proceedings on failure to appear.**—If the person so recognized shall not appear before the magistrate at the time appointed for such further examination, according to the conditions of such recognizance, the magistrate shall record the default and certify the recognizance, with the record of such default, to the district court, and like proceedings shall be had thereon as upon the breach of the condition of a recognizance for appearance before that court.—R. L. 1905, § 5242.

§ 1463. **Failing to recognize, committed.**—When such person shall fail to recognize, he shall be committed to prison by an order under the hand of the magistrate, stating concisely that he is committed for further examination on a future day, to be named in the order; and on the day appointed he may be brought before the magistrate, by his verbal order to the same officer by whom he was committed, or by an order in writing to a different person.—R. L. 1905, § 5243.

§ 1464. **Examination—Rights of accused.**—The magistrate before whom any person shall be brought upon a charge of having committed an

offense shall, as soon as may be, examine the complainant and the witnesses in support of the prosecution, on oath, in the presence of the party charged, in relation to any pertinent matter connected with such charge, after which the witnesses for the prisoner, if he has any, shall be sworn and examined, and he may be assisted by counsel in such examination, and also in the cross-examination of the witnesses in support of the prosecution.—R. L. 1905, § 5244.

§ 1465. **Witnesses kept separate—Testimony, how taken.**—While examining any witness, the magistrate may in his discretion exclude all other witnesses from the place of examination, and upon request, or if he sees cause, he may direct the witnesses for and against the prisoner to be kept separate, so that they cannot converse with each other until they have been examined. He shall reduce the testimony to writing, or cause it to be done, and when he shall so require, have it signed by the witnesses.—R. L. 1905, § 5245.

§ 1466. **Prisoner discharged, when—Offenses not bailable.**—If upon the whole examination it shall appear that no offense has been committed, or that there is not probable cause for charging the prisoner with it, he shall be discharged. A person charged with an offense punishable with death shall not be admitted to bail if the proof is evident or the presumption great, nor shall any person charged with an offense punishable with death, or imprisonment in the State Prison for more than seven years, be admitted to bail by a justice of the peace; in all other cases bail may be taken in such sum as in the opinion of the judge or magistrate will secure the appearance of the accused at the court where he is to be tried.—R. L. 1905, § 5246.

§ 1467. **District courts possess powers to hear and try prosecutions upon information, in certain cases.**—The district courts of this state shall possess and may exercise the same power and jurisdiction to hear, try, and determine prosecutions upon informations for the crimes, misdemeanors and offenses, specified in section four of this act and to issue writs and process and do all other acts therein as they possess and may exercise in cases of like prosecutions upon indictment.—G. L. 1905, Chap. 231, § 1.

§ 1468. **Offense charged to be stated in plain language—Provisions as to trial under indictments to apply.**—The offense charged in any such information shall be stated in plain and concise language, without prolixity or unnecessary repetition, and all the provisions of law relating to indictments and for testing the validity thereof, shall apply to informations, and all provisions of law applying to prosecutions upon indictments, to writs and process thereon, and to the issuing and service thereof; to motions, pleadings, trials and punishments, or to the passing or execution of any sentence thereon, and to all other proceedings in cases of indictment, whether in the court of original or appellate jurisdiction, shall to the same extent and in the same manner, as near as may be, apply to informations and all prosecutions and proceedings thereon.—G. L. 1905, Chap. 231, § 2.

§ 1469. **No information filed without preliminary hearing unless waived.**—No information shall be filed against any person for any offense, until such person shall have had a preliminary examination as provided by law, before a justice of the peace or other examining magistrate or officer, unless such person shall waive his right to such preliminary examination.—G. L. 1905, Chap. 231, § 3.

§ 1470. **When person held to district court, and in all cases when committed, court shall have power, upon application of prisoner in writing, that he wishes to plead guilty, to direct county attorney to file information, if not filed, and may receive and record plea of guilty, and judgment entered and sentence. Sentence on plea of guilty may be in term or in vacation—Duty of sheriff and other officers—Expense—Not to apply where punishment exceeds seven years—Prisoner to be represented by competent counsel.**—That in all cases where a person charged with a criminal offense shall have been held to the district court for trial by any

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court or magistrate, and in all cases where any person shall have been committed for trial and is in actual confinement or in jail by virtue of an indictment or information pending against him, the court having trial jurisdiction of such offense or of such indictment or information shall have the power at any time, whether in term or vacation, upon the application of the prisoner in writing, stating that he desires to plead guilty to the charge made against him by the complaint, indictment or information, or to a lesser degree of the same offense to direct the county attorney to file an information against him for such offense, if any indictment or information has not been filed, and upon the filing of such information and of such application, the court may receive and record a plea of guilty to the offense charged in such indictment or information, or to a lesser degree of the same offense and cause judgment to be entered thereon and pass sentence on such person pleading guilty, and such proceedings may be had either in term time or in vacation, at such place within the judicial district where the crime was committed as may be designated by the court.

And whenever such plea is received at any other place than the county seat of the county wherein the crime charged in the indictment or information was committed, the sheriff or his deputy shall take the defendant to the place designated by the court, and the county attorney and clerk of district court, or his deputy, of the county wherein the crime charged in the indictment or information was committed, shall attend the hearing for the purpose of taking part in the proceedings and recording the plea of the defendant and entering judgment thereon.

And the expense of the sheriff, clerk of district court or their deputies, and county attorney, necessarily incurred and paid by them in attending on such proceedings shall be a charge on the county wherein the crime charged in the indictment or information was committed, and shall be allowed and paid by the county commissioners of said county in the same manner as other claims against the county.

This section shall not apply to cases where the punishment for the offense to which the prisoner desires to plead guilty may exceed seven years' imprisonment in the State Prison.

Provided, that no plea of guilty shall be received or entered under the provisions of this section, unless the person charged in the indictment or information be represented by competent counsel, and in case he shall have no counsel the court shall appoint competent counsel to appear for such accused, and the fees of such attorney shall be paid in the manner provided in sec. 4789, (§ 945) and the court shall not accept such plea of guilty or pass sentence thereon unless it is fully satisfied that the accused has had his action properly considered and advised by competent counsel.—G. L. 1905, Chap. 231, § 4, as amended G. L. 1909, Chap. 398.

§ 1471. **Form of information.**—Such information may be in the following form:

State of Minnesota,	}	ss.	District Court,
County of	}		Judicial District.

The State of Minnesota,
against
(The name of the accused.)

I,, county attorney for said county, hereby inform the court that on the day of, in the year, at said county, A. B. (name or alias of accused) did (state the offense) against the peace and dignity of the State of Minnesota.

Dated

.....
County Attorney.
—G. L. 1905, Chap. 231, § 5.

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§ 1472. **Bail—Commitment.**—Whenever at the close of an examination it shall appear that an offense has been committed, and that there is probable cause to believe the prisoner to be guilty, if the offense be bailable by the magistrate, and the prisoner shall offer sufficient bail or money in lieu thereof, it shall be taken, and he shall be discharged; but if no sufficient bail be offered, or the offense shall not be bailable by the magistrate, he shall be committed for trial. Whenever cash bail shall be deposited in lieu of other bail, such cash shall be the property of the accused, whether deposited by him personally or by any third person in his behalf. Whenever cash bail shall be accepted by a judge of a court of record, he shall order the same to be deposited with the clerk, there to remain until the final disposition of the case and the further order of the court relative thereto. Upon release in whole or in part, the amount so released shall be paid to the accused personally or upon his written order. In case of conviction the magistrate may order such deposit to be applied upon any fine imposed, and, if such fine be less than the deposit, the balance shall be paid to the defendant. If the fine exceeds the deposit, the deposit shall be applied thereon and the defendant committed until the balance is paid, but such commitment shall not exceed one day's time for each dollar of such unpaid balance. Cash bail in the hands of the court or any officer thereof shall be exempt from garnishment or levy under attachment or execution.—R. L. 1905, § 5247.

§ 1473. **Witness to recognize, when—Commitment.**—When a prisoner shall be admitted to bail, or committed by the magistrate, he shall also bind by recognizance such witnesses against the prisoner as he shall deem material, to appear and testify at the court to which the prisoner is held to answer. If the magistrate shall be satisfied that there is good reason to believe that any witness will not perform the conditions of his recognizance unless other security shall be given, he may order him to enter into a recognizance for his appearance, with such sureties as he shall deem necessary; but, except in case of murder in the first degree, arson where human life is destroyed, and cruel abuse of children, he shall not commit any witness who shall offer to recognize, without sureties, for his appearance as aforesaid.—R. L. 1905, § 5248.

§ 1474. **Refusal—Married woman or minor.**—Every witness required to recognize, with or without sureties, who shall refuse so to do, shall be committed by the magistrate until he shall comply with such order, or be otherwise discharged according to law. Every person held as a witness shall receive such compensation during confinement as the court before whom the case is pending shall direct, not exceeding regular witness fees. Whenever a married woman or a minor shall be a material witness, any other person may recognize for the appearance of such witness, or the magistrate may take recognizance of such witness in a sum of not more than \$50, which shall be valid and binding in law, notwithstanding such disability.—R. L. 1905, § 5249.

§ 1475. **Magistrate may act with another.**—Any magistrate to whom a complaint shall be made, or before whom any prisoner shall be brought, may associate with himself one or more magistrates of the same county, and they may together execute the powers and duties before mentioned; but no fees shall be taxed for such associates.—R. L. 1905, § 5250.

§ 1476. **Certifying testimony.**—All examinations and recognizances taken by any magistrate under the provisions of this chapter shall be certified and returned by him to the clerk of the court before which the party charged is bound to appear within ten days after such examination has been made, or said recognizance taken, and shall be filed in said court; and if such magistrate shall neglect or refuse to return the same, he may be compelled forthwith by rule of court, and in case of disobedience may be proceeded against by attachment as for contempt.—R. L. 1905, § 5251.

§ 1477. **Examinations and recognizances—Certify to clerk of court.**—That section seven thousand one hundred and fifty-six (7156) of the general statutes of Minnesota for 1894 be amended so as to read as follows:

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Section 7156. All examinations and recognizances, taken by any magistrate in pursuance of the provisions of this chapter, shall be certified and returned by him to the clerk of the court, before which the party charged is bound to appear, within ten (10) days after such examination has been had or said recognizance taken, and shall be filed in said court; and if such magistrate neglects or refuses to return the same he may be compelled forthwith by rule of court, and, in case of disobedience, may be proceeded against by attachment as for contempt.—G. L. 1905, Chap. 179.

§ 1478. **Proceedings on default.**—Whenever any person, in any criminal prosecution, under recognizance either to appear and answer, to prosecute an appeal, or to testify in any court, shall fail to perform the conditions of such recognizance, his default shall be recorded, and process issued against the persons bound thereby, or such of them as the prosecuting officer shall direct; and any surety may, by leave of court, after default, and either before or after process shall be issued against him, pay to the county treasurer or clerk of court the amount for which he was bound as surety, with such costs as the court shall direct, and be thereupon forever discharged.—R. L. 1905, § 5252.

§ 1479. **Penalty of recognizance remitted, when.**—Whenever any action shall be brought in the name of the state against a principal or surety in any recognizance entered into by a party or witness in any criminal prosecution, and the penalty thereof shall be adjudged forfeited, the court may, upon application of any party defendant, remit the whole or any part of such penalty, and may render judgment thereon for the state, according to the circumstances of the case and the situation of the party, and upon such terms and conditions as it may deem just and reasonable.—R. L. 1905, § 5253.

§ 1480. **Action on recognizance—Not barred, when.**—No action brought on any recognizance shall be barred or defeated, nor judgment thereon arrested, by reason of any neglect or omission to note or record the default of any principal or surety at the term when it occurs, or by reason of any defect in the form of the recognizance, if it shall sufficiently appear from the tenor thereof at what court the party or witness was bound to appear, and that the court or magistrate before whom it was taken was authorized by law to require and take it; and whenever upon action brought upon any recognizance to prosecute an appeal the penalty thereof shall be adjudged to be forfeited, or when by leave of court such penalty has been paid to the county treasurer or clerk of court without suit or before judgment in a manner provided by law, if by law any forfeiture accrues to any person by reason of the offense of which appellant was convicted, the court may award him such sum as he may be entitled to out of such forfeiture.—R. L. 1905, § 5254.

§ 1481. **Defaulter arrested, when.**—Whenever a defendant in any indictment has been admitted to bail after verdict or trial, and shall neglect to appear before any court or officer at any time or place at which he is bound to appear and submit to the jurisdiction of the proper court or officer, such court or officer may cause him to be arrested in the same manner as upon the finding of an indictment, and may forfeit his recognizance and direct the same to be prosecuted.—R. L. 1905, § 5255.

§ 1482. **Application for bail—Justification.**—Whenever a party in custody shall desire to give bail, the offense being bailable, and the district court shall not be in session in the county, he may apply to a judge thereof, or a judge of the Supreme Court, upon his affidavit showing the nature of the application and the names of the persons to be offered as bail, with a copy of the mittimus or papers upon which he is held in custody. Such judge may thereupon, by order, direct the sheriff to bring up said party, at a time and place named, for the purpose of giving bail. Notice of such application shall be given to the county attorney, if within the county, and no matters shall be inquired into except such as relate to the amount of bail and the sufficiency of the sureties. Sureties shall in

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all cases justify by affidavit, or upon oral examination before the court, judge or magistrate, as the case may be.—R. L. 1905, § 5256.

§ 1483. **Surrender of principal—Notice to sheriff.**—Whenever a surety, for any person held to answer, upon any charge or otherwise, shall believe that his principal is about to abscond, or that he will not appear as required by his recognizance, or not otherwise perform the conditions thereof, he may arrest and take such principal, or cause him to be arrested and taken before the officer who admitted him to bail, or the judge of the court before which such principal was by his recognizance required to appear, and surrender him up to such officer or judge; or any such surety may have such person arrested by the sheriff of the county by delivering to him a certified copy of the recognizance or instrument of bail under which he is held as surety, with a direction to such sheriff, indorsed thereon, requiring him to arrest such principal and bring him before such officer or judge to be so surrendered, and on the receipt thereof, and a tender or payment to him of his fees therefor, such sheriff shall arrest such principal and bring him before such officer or judge, to be so surrendered. Before any surety shall personally surrender such person, the sheriff shall be notified, and he or one of his deputies be present to take him into custody if he shall fail to give new bail as herein provided.—R. L. 1905, § 5257.

§ 1484. **Commitment of principal.**—When any such principal shall be so surrendered, the officer or judge to whom he is surrendered shall, by a new commitment, commit him to jail, unless he shall give sufficient bail, with new sureties, as he was required by law to do in the first instance.—R. L. 1905, § 5258.

§ 1485. **Fees of sheriff.**—The sheriff shall be allowed the same fees and mileage for making an arrest or attending before said officer or judge as for arresting a person under a bench warrant, and in all cases his fees shall be paid by the surety or sureties surrendering any principal as herein provided.—R. L. 1905, § 5259.

§ 1486. **Examination before justice—Removal.**—Whenever any person charged with a criminal offense shall be brought before a justice of the peace or court commissioner for examination under the provisions of this chapter, if, before the commencement of such examination, he shall make oath that, from prejudice or other cause, he believes that such magistrate will not decide impartially in the matter, then such magistrate shall immediately transmit all the papers in the case to a justice of the peace of the same or an adjoining election district in the same county, who is qualified by law to conduct such examination, and he shall proceed with the same as though it had been first brought before him; but no case shall be so removed after a second adjournment, and only one removal shall be had in the same case.—R. L. 1905, § 5260.

GAME AND FISH LAWS

An act for the preservation, propagation, protection, taking, use and transportation of game and fish; and certain harmless birds and animals.

TITLE I.—GENERAL PROVISIONS.

§ 1487. **Game and Fish Commission—Appointment—Terms.**—A state game and fish commission is hereby created, consisting of five (5) members to be appointed by the governor for a term of four (4) years each. Those heretofore appointed pursuant to chapter three hundred thirty-six (336) of the laws of 1903 shall continue in office until the expiration of their respective terms. Vacancies arising from any cause shall be filled by the governor. Members shall serve without compensation except for necessary expenses to be paid upon an itemized statement thereof duly audited by said commission.—G. L. 1905, Chap. 344, § 1.

§ 1488. **Office.**—Said commission shall have an office in the capitol and be supplied with suitable stationery, a seal and blanks and postage for the transaction of its business.—G. L. 1905, Chap. 344, § 2.

§ 1489. **General powers—Duties.**—Said commission shall enforce the laws of this state involving the protection and propagation of all game animals, game birds, fish and harmless birds and animals.

Said commission shall have general charge of—

1. The propagation and preservation of such varieties of game and fish as it shall deem to be of public value.

2. The collection and diffusion of such statistics and information as shall be germane to the purpose of this act.

3. The construction, control and management of all state fish hatcheries, including the control of grounds owned or leased for such purposes.

4. The receiving from the United States commissioner of fisheries or other person, and the gathering, purchase and distribution to the waters of this state, of all fish spawn or fry.

5. The taking of fish from the public waters of the state for the propagation and stocking of other waters therein.

6. The seizure and disposition of all game birds, game animals and fish, either taken, killed, transported or possessed contrary to law, of all dogs, guns, seines, nets, boats, light, or other instrumentalities unlawfully used or held with intent to use, in pursuing, taking, attempting to take, concealing or disposing of the same.—G. L. 1905, Chap. 344, § 3.

§ 1490. **Reports—Records.**—Said commission shall, on or before December 1st of each even numbered year, submit to the governor a detailed report of its actions, including the amount of money received from all sources, an inventory of all game, fish, guns, dogs, seines, nets and other property seized and sold, with the names of the purchasers, and the amount received, and an itemized statement of its disbursements. The books and vouchers of said commission shall be subject to examination by the public examiner at all times.—G. L. 1905, Chap. 344, § 4, as amended G. L. 1907, Chap. 469.

§ 1491. **Executive agent.**—The commission shall appoint one of its members its executive agent, who shall devote all his time to the discharge of his duties, and shall receive compensation therefor to be fixed by said commission, not exceeding twenty-five hundred (2,500) dollars

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per year. He shall act as such executive agent during the pleasure of the commission and be subject to its direction. When the commission is not in session, he is hereby authorized to exercise in its name all the rights, powers and authority vested in said commission. Before entering upon the discharge of his duties he shall give a bond to the State of Minnesota, with sureties or security, to be approved by the commission, in the penal sum of five thousand (5,000) dollars, conditioned for the faithful accounting of all state property coming into his hands.—G. L. 1905, Chap. 344, § 5. As amended G. L. 1907, Chap. 469.

§ 1492. **Employees.**—The commission may appoint and remove at pleasure, a superintendent of fisheries, at a salary not exceeding three thousand dollars (\$3,000) a year, and such assistants as may be necessary. It may also employ a sufficient number of game wardens, other persons, and office assistants, as may be necessary to carry out the purposes of this chapter, and fix their periods of service and compensation.—G. L. 1905, Chap. 344, § 6.

§ 1493. **Other officials—Attorney.**—The county attorneys, sheriffs, constables and other peace officers, are hereby required, and it is made their duty, to enforce the provisions of this chapter and the commission may employ an attorney or attorneys to perform such legal services as said commission may require. He shall appear for said commission in all civil actions in which it or its wardens may be interested officially, and may assist the county attorney in the prosecution of criminal actions arising under this chapter, and when for any reason the county attorney does not prosecute such criminal actions, he may conduct such prosecutions on behalf of the state with the same authority as the county attorney. The compensation to be paid said attorney shall be fixed by the commission and paid out of the funds provided for the enforcement of this act.—G. L. 1905, Chap. 344, § 7.

§ 1493. **Execution of writs.**—The executive agent of said commission, all members and all wardens appointed by said commission, shall have full power and authority to serve and execute all warrants and process the law issued by the court in enforcing the provisions of this act, or any other law of this state relating to the preservation and propagation of game and fish, in the same manner as any constable or sheriff may serve and execute the same, and for the purpose of enforcing the provisions of this chapter, they may call to their aid any sheriff, deputy sheriff, constable or police officer or any other person, and it shall be the duty of all sheriffs, deputy sheriffs, constables or police officers and other persons, when called upon to enforce and aid in enforcing the provisions of this chapter. The executive agent and all deputies shall have the power to arrest without a warrant any person or persons found in the act of violating any law enacted for the purpose of protecting or propagating game or fish.—G. L. 1905, Chap. 344, § 8. As amended G. L. 1907, Chap. 469.

§ 1494. **Bonds.**—The following appointees shall give bonds to be approved by the commission and filed in the office of the secretary of state, conditioned for the faithful discharge of their respective duties, in the following amounts:

First—Superintendent of fisheries, one thousand dollars (\$1,000).

Second—Each game warden five hundred dollars (\$500).—G. L. 1905, Chap. 344, § 9.

§ 1495. **Terms defined—Agency no excuse.**—The words "sell" and "sale" as used in this chapter shall be construed as meaning any sale of (or) offer to sell or having in possession with intent to sell, use or dispose of the same contrary to law. The word "person" shall be deemed to include partnerships, associations, and corporations, and no violation of any provisions of this chapter shall be excused for the reason that the prohibited act was done as the agent or employe of another, nor that it was committed by or through an agent or employe of the person charged. The word "possession" shall be deemed to include both actual and constructive possession as well as the control of the article referred to. The terms "waters of this state" shall be held to include all the

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boundary waters of the state, and the provisions of this chapter shall be deemed to extend and be in force and effect over, upon and in all thereof. The terms "any part thereof" or "the parts thereof," whenever used in this chapter shall be deemed to include the hides, horns and hoofs of any animal so referred to, and the plumage and skin and every other part of any bird so referred to. The terms "fur bearing animals" shall not be deemed to include deer, moose or caribou.—G. L. 1905, Chap. 344, § 10.

§ 1496. **Inspection of hotels, etc.**—The game and fish commission and all game wardens shall inspect from time to time hotels, restaurants, cold storage houses or plants and ice houses commonly used in storing meats, game or fish for private parties, including all buildings used for a like purpose, for the purpose of determining whether game or fish are kept therein in violation of the provisions of this chapter. Any person, in possession or control, or in charge of any hotel, restaurant, storage plant or building referred to, or any part thereof, who refuses or fails to permit any member of the game and fish commission or any warden appointed by said commission to enter any such building or any part thereof, or any receptacle therein, for the purpose of making such inspection, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty (50) or over one hundred (100) dollars, including costs of prosecution, or imprisonment in the county jail for a term of not less than thirty (30) or over ninety (90) days for the first offense, and upon conviction for a second offense shall be punished by imprisonment in the county jail for a period of not less than sixty (60) or over ninety (90) days.—G. L. 1905, Chap. 344, § 11.

§ 1497. **Contraband game, seizure and search.**—Any bird, animal, fish or any part thereof, caught, killed, shipped or had in possession or under control contrary to any of the provisions of this chapter, is hereby declared to be contraband.

The game and fish commission, all game wardens, sheriffs and their deputies, constables and police officers, shall seize and take possession of any and all birds, animals, or fish or any part thereof which have been caught, taken, killed or had in possession or under control or shipped contrary to any of the provisions of this chapter. Any court having jurisdiction may upon complaint showing probable cause for believing that any bird, animal, fish or any part thereof caught, taken, killed or had in possession or under control by any person, or shipped or transported contrary to the provisions of this chapter, is concealed or illegally kept in any building, car or receptacle, shall issue a search warrant and cause a search to be made in any such place for any such birds, animals, fish or any part thereof, and may cause any building, inclosure or car to be entered, and any apartment, chest, box, locker, crate, basket, package, or any other receptacle whatever to be broken, opened and the contents thereof examined. All such officers taking or seizing any such birds, animals or fish, or any part thereof, shall at once report all the facts attending the same to the commission.—G. L. 1905, Chap. 344, § 12.

§ 1498. **Contraband Devices.**—All nets, seines, lanterns, snares, devices, contrivances and materials, while in use, or had, or maintained, for the purpose of catching, taking or killing, or attracting or deceiving any bird, animal, or fish contrary to any provision of this chapter, within this state or upon or in the boundary waters thereof, including fish houses, inclosures or other sheltering structures or appliances erected or maintained upon the ice or in any water, or on the shore of any lake, pond or stream, is hereby declared to be and is a public nuisance. The commission, all game wardens, sheriffs and their deputies, constables and police officers shall without warrant or process, take, seize, abate and destroy any and all of the same while being used, had or maintained for such purpose and no liability shall be incurred therefor to any person.—G. L. 1905, Chap. 344, § 13.

§ 1499. **Witnesses.**—In any prosecution under the provisions of this chapter, a participant in the violation thereof may testify as a witness against any other persons violating the same, without incriminating him-

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self, any criminal proceeding for such violation.—G. L. 1905, Chap. 344, § 14.

§ 1500. **Limitations.**—All prosecutions under this chapter shall be commenced within two years (2) from the time the offense was committed.—G. L. 1905, Chap. 344, § 15.

§ 1501. **Exchange specimens.**—The commission may secure by purchase or otherwise, and exchange specimens of game birds, game animals or fish with the game commission or state game warden of other states for breeding purposes, and not otherwise; and may also grant permission under the seal of said commission, to any accredited representative of any incorporated society of natural history to collect for scientific purposes only, nests, eggs, birds, animals or fish protected by this chapter. Such specimens shall not be sold or transferred.—G. L. 1905, Chap. 344, § 16.

§ 1502. **Fishways.**—Any person owning, erecting, managing or controlling any dam or other obstruction across any river, creek or stream, within or forming the boundary line of this state, shall construct in connection with such dam, durable and efficient fishways in such a manner and of such shape and size that the free passage of all fish inhabiting such waters shall not be obstructed. Such fishways shall be maintained in such condition and kept in good repair by the person so owning, controlling, managing, operating or using such dam or obstruction.

If any such person fails to construct or keep in good repair durable and efficient fishways as herein provided, for the space of ten (10) days after notice, the commission may construct or repair the same and the cost thereof may be recovered from the owners or any person managing or being in control thereof, in a civil action brought in the name of the State of Minnesota. Any money so recovered shall be credited to the game and fish commission.

All fishways heretofore or hereafter erected in any dam or obstruction across any of the streams of this state, shall at all times be under the supervision and control of the commission.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor.—G. L. 1905, Chap. 344, § 17.

§ 1503. **Sawdust deposits.**—Any person who deposits any sawdust or other refuse in any streams or water wherein the commission has deposited fish fry, or may deposit any such fry, or where any brook trout naturally abound, shall be deemed guilty of a misdemeanor.—G. L. 1905, Chap. 344, § 18.

§ 1504. **Disposition of fines.**—All fines collected under any of the provisions of this chapter shall be paid into the county treasury of the county wherein the conviction was had, to the credit of the general revenue fund.—G. L. 1905, Chap. 344, § 19.

§ 1505. **Disposition of other moneys.**—All moneys collected by the commission upon licenses issued by it, or bonds or contracts entered into with any person, including money received from all other sources, except fines, shall be paid into the state treasury and credited to the game and fish commission fund to be used for the purpose of enforcing the provisions of this chapter.—G. L. 1905, Chap. 344, § 20.

§ 1506. **Rewards.**—The following rewards shall be paid by the game and fish commission out of any funds subject to its order to any person or persons making complaint thereof, for the arrest and conviction of any person violating any of the provisions of this chapter or other enactments involving: (a) Moose or caribou, the sum of fifty (50) dollars; (b) Deer, the sum of twenty-five (25) dollars; (c) Any game bird or fish, ten (10) dollars; provided, however, that this section shall not apply to any game warden regularly employed and receiving salary from said commission.—G. L. 1905, Chap. 344, § 21, as amended G. L. 1907, Chap. 469.

§ 1507. **Domesticated game and fish: Complaint—Presumption.**—The commission may issue permits to breed or domesticate deer, moose, elk and caribou upon application to it which shall contain:

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1. The name and address of applicant.
2. A description of the premises on which applicant will keep such domesticated animals.
3. The number and kinds of animals in possession at the time of making the application and whether they are wild or domesticated.

The application shall be accompanied by a fee of fifty cents (.50) for each animal in possession. The commission may thereupon issue a permit to the applicant to keep such animals. Any person holding such permit shall annually on the first day of January report to the commission any increase or decrease had upon the original number applied for, together with a fee of 50 cents for each additional animal. The commission shall keep a record of all persons holding such permits and shall send to them numbered tags to be attached to each of the animals.

Any such animals may be sold or shipped within or without the state upon receipts of written permission to do so from the commission.

Persons desiring to maintain a private hatchery for the propagation of trout may do so upon application to said commission giving the name and address of the person owning or controlling the same and a mark used to designate it. Trout grown in such hatcheries may be sold and shipped within or without the state in boxes or packages upon which such mark is placed.

Provided, however, that in any prosecution for any violation of any of the provisions of this chapter it shall not be necessary for the prosecution to allege or prove that the birds or animals were not domesticated or that the trout were not grown in a private hatchery or that the birds, animals or fish were not taken for scientific purposes, but the person claiming that such birds, or animals were domesticated, or the trout grown in a private hatchery, or that the said birds or animals were taken for scientific purposes, as herein provided, shall prove on the hearing or trial that such birds or animals were domesticated, or that such trout were grown in a private hatchery or that such birds or fish were taken for scientific purposes as by law provided, or were not caught, taken or killed outside this state, or had in possession without license or permit therefor.—G. L. 1905, Chap. 344, § 22.

TITLE II.—GAME BIRDS AND ANIMALS.

§ 1508. **Ownership in state.**—No person shall at any time or in any manner acquire any property in, or subject to his dominion or control, any of the birds, animals or fish or any part thereof of the kinds herein mentioned, but they shall always and under all circumstances be and remain the property of this state; except, that by killing, catching or taking the same in the manner and for the purposes herein authorized, and during the periods when their killing is not herein prohibited, the same may be used by any person at the time, in the manner and for the purposes herein expressly authorized; and whenever any person kills, catches, takes, ships or has in possession, or under control, any of the birds, animals or fish, or any part thereof, mentioned in this chapter, at a time or in a manner prohibited by this chapter, such person shall thereby forfeit and lose all his right to the use and possession of such bird, animal or fish, or any part thereof, and the state shall be entitled to the sole possession thereof.—G. L. 1905, Chap. 344, § 23.

§ 1509. **Nests and eggs.**—No person shall at any time take or have in possession or under control, break up or destroy or in any manner interfere with any nest, or the eggs of any of the kinds of birds, the killing of which is at any or all times prohibited.—G. L. 1905, Chap. 344, § 24.

§ 1510. **Manner of taking.**—No person shall at (any) time, catch, take or kill any of the birds or animals mentioned in this chapter, in any other manner than by shooting them with a gun held to the shoulder of the person discharging the same.—G. L. 1905, Chap. 344, § 25.

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§ 1511. **Traps, snares, lights, etc.**—No person shall at any time set, lay, prepare, or have in possession any trap, snare, artificial light, net, bird lime, swivel gun or set gun or any contrivance whatever, for the purpose of catching, taking or killing any of the game animals or birds in this chapter mentioned, except that decoys and stationary blinds may be used in hunting wild geese, brant and ducks.—G. L. 1905, Chap. 344, § 26.

§ 1512. **Shooting after dark—Sink—Boats, etc.,—Hunting from motor boat, launch or sail boat prohibited.**—No person shall at any time hunt with or shoot from any boat, canoe or contrivance or device whatever on any of the waters in this state between dark and daylight, and no person shall at any time hunt with or from any motor boat, launch or sail boat, floating battery, sink boat, sunken barrels, boxes, tubs, floating blinds or any similar device whatever on any of the waters of this state.—G. L. 1905, Chap. 344, § 27, as amended G. L. 1909, Chap. 288.

§ 1513. **Shooting with dogs.**—No person shall hunt, pursue, catch, take or kill any of the animals in this chapter mentioned, with any dog or dogs. Any dog or dogs used or attempted to be used in violation of any of the provisions of this section is hereby declared to be and is a public nuisance, and it shall be lawful for any person to kill any dog or dogs so being used or attempted to be used. The use or running of either pointer or setter dogs in fields or upon lands frequented by or in which game birds may be found during the month of August, or at any time except during the open season for killing game birds, and the keeping and maintaining of any dog at or about any hunting camp or lumber camp used by hunters, situated in any locality frequented by deer, moose or caribou, is hereby prohibited and made unlawful.—G. L. 1905, Chap. 344, § 28.

§ 1514. **Entering Growing Grain.**—No person shall at any time enter into any growing or standing grain not his own with intent to take, or kill any bird, or animal, nor permit any dog with which he shall be hunting to do so for such purpose, without permission from the owner or person in charge thereof. No person shall at any time enter upon any land not his own with intent to take or kill any birds or animals after being notified by the owner or occupant thereof not to do so. Such notice may be given orally or by posting written or printed notices to that effect, in the English language, in conspicuous places on the land so protected.—G. L. 1905, Chap. 344, § 29.

§ 1515. **Game killed in another state.**—No person shall at any time have in his possession or under his control within this state any bird, animal or fish, or any part thereof, which has been caught, taken or killed outside of this state at a time when it is unlawful to have in possession or under control such birds, animals or fish, or parts thereof, if caught, taken or killed in this state, or which have been unlawfully taken or killed outside this state, or unlawfully shipped therefrom into this state.—G. L. 1905, Chap. 344, § 30.

§ 1516. **Possession of game and fish, presumption.**—The possession or having under control by any person of any bird, animal or fish, or any part thereof, the killing of which is at any time herein prohibited, shall be prima facie evidence that it was the property of this state at the time it was caught, taken and killed (in this state), also that such possession or having under control at any time when the killing, taking or possession thereof is by this chapter declared to be unlawful, shall be prima facie evidence that such taking and killing occurred during the closed season, unless there remains attached to such game bird or animal or any part thereof, the tag and seal of the state game and fish commission, provided for by this chapter to disprove which it shall be necessary for the party in possession thereof to show that at the time it was caught, taken or killed, it was lawfully caught, taken or killed outside, or within this state, or that it was lawfully caught, taken or killed within the state and that he was lawfully in possession thereof.—G. L. 1905, Chap. 344, § 31.

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§ 1517. Nothing in this act shall be construed as prohibiting the buying, shipping or having in possession at any time the skins of furbearing animals killed within or without the state, or hides of moose, deer or caribou killed without the state upon proof that the hides were so taken. Provided, however, that raw hides of moose, deer or caribou taken or killed within this state out of season shall not be bought or sold at any time.—G. L. 1905, Chap. 344, § 31½.

§ 1518. Killing of wild animals or birds in national parks prohibited.—No person shall kill, or pursue with intent to kill, take, snare or have in possession, by any means, upon the Minnesota state forest reserve lands or parks, national forest lands, or upon any lands lying north of the Superior national reserve, established Feb. 13, 1909, located in the counties of St. Louis, Lake and Cook, that may be designated by the state game and fish commission as game propagating and breeding grounds, any wild animals or birds protected at any time by law.

The killing or having in possession of each such protected animal or bird shall constitute a separate offense.

Provided, that this act shall not prohibit the killing or destroying of wolves or other noxious animals by or under the supervision of the state game and fish commission or the state forestry board.—G. L. 1909, Chap. 320.

§ 1519. Change of date for killing certain game birds.—No person shall hunt, take, kill, ship, convey, or cause to be shipped or transported by common or private carrier, to any person either within or without the state, expose for sale, sell to any one, have in possession with intent to sell, or have in possession or under control at any time, any turtle dove, snipe, prairie chicken, pinnated, white-breasted or sharp-tailed grouse, quail, partridge, ruffed grouse, Chinese, ring-neck or English pheasant, wild duck of any variety, brant, or any variety of aquatic fowl whatever, or any part thereof, except:

1st. That any turtle dove, snipe, prairie chicken, pinnated, white-breasted or sharp-tailed grouse, woodcock, upland plover and golden plover may be killed and had in possession between the 7th day of September and the 7th day of November following.

2nd. That any quail, partridge, ruffed grouse or pheasant, other than Mongolian, Chinese, ring-neck or English pheasant, may be killed or had in possession between the first day of October and the first day of December following.

3rd. That wild duck of any variety, wild goose of any variety, brant, or any variety of aquatic fowl whatever, may be killed and had in possession between the seventh day of September and the first day of December following.

And when any of the birds mentioned in this section have been lawfully caught, taken, killed or had in possession within the time herein allowed, they may be had in possession for five (5) days thereafter.

But no person shall in any one day take or kill more than fifteen (15) birds, or have in his possession at any time more than forty-five (45) turtle dove, prairie chicken, white-breasted or sharp-tailed grouse, quail, partridge, ruffed grouse or pheasant, woodcock, upland plover, golden plover or any or all of the same combined, or fifty (50) snipe, wild duck, goose, brant, or any variety of aquatic fowl whatever, or any or all of the same combined.

Provided, that whenever any of the game mentioned in this section shall have been lawfully shot or taken by any resident of this state in any state wherein the season for so lawfully taking the same shall be earlier or later than herein stated, such resident may ship, to himself only, in this state, and have in possession therein during the season allowed by the law of such state for the taking thereof any such game so lawfully taken in such state, and for five days thereafter.—G. L. 1905, Chap. 344, § 32, as amended G. L. 1909, Chap. 282.

§ 1520. Deer and moose—Season for killing.—No person shall hunt, catch, take, kill, ship, convey or cause to be shipped or transported by

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common or private carrier, to any person, either within or without the state, or purchase, expose for sale, have in possession with intent to sell, sell to any person, or have in possession or under control at any time, any elk, moose, caribou, deer or fawn, or any part thereof, including the hides and horns, except as hereinafter provided. Provided, that deer may be killed between Nov. 10 and Nov. 30 of the same year, and any deer or any part thereof, may be had in possession by any person during the same time; but no person shall kill or have in possession during said time more than two (2) deer, or parts thereof; and provided further, that any person who is lawfully in possession of any deer, or any part thereof, may ship or cause the same to be shipped in the manner provided for by this chapter, but not otherwise; and provided, further, that male antlered moose may be killed between Nov. 10th and Nov. 30th of the same year, and any such male moose, or part thereof, may be had in possession by any person during the time aforesaid, but no person shall kill or have in possession during said time more than one (1) male moose, or part thereof; and provided, further, that when any deer or such male moose or any part thereof, are lawfully in the possession of any person as provided for in this chapter, such person may continue in the possession of the same for five (5) days after the time herein limited for killing said animals; and provided, further, that no cow or female moose can be killed or had in possession at any time.—G. L. 1905, Chap. 344, § 33.

§ 1521. **Resident license—Shipment of game.**—Every resident of this state over twenty-one years of age is prohibited from hunting, taking or killing any game bird or game animal, unless he shall have first procured a license therefor from the county auditor of the county in which he resides. Provided, however, that this shall not apply to any resident of said county. Said auditor shall, upon application, issue to such person a license under his seal, upon blanks to be furnished him by the game and fish commission, and upon the payment of a license fee of one (1) dollar, which license shall expire on the fifteenth (15th) day of December following its issuance. Ten cents of the amount received for the issuance of said license shall be retained by the county auditor as his fee, and the balance remitted to the state treasurer, who shall credit the same to the game and fish commission fund, to be used for the purpose of enforcing the provisions of this chapter. Every such applicant shall prove to the satisfaction of the county auditor that he is a bona fide resident of this state, and shall state under oath, his name, residence and postoffice address. Only one of such licenses shall be issued to any person, and it shall not be transferable, and it is hereby made the duty of such licensee to exhibit the same to any person upon request. Such license shall describe the licensee, designate his place of residence, and shall have attached thereto three (3) coupons, upon which shall be printed respectively the words "moose," "deer" and "game birds." Each coupon, except the ones marked "deer" and "game birds," shall be divided into two (2) sections lettered respectively "A" and "B." The coupons marked "deer" and "game birds" shall be divided into four (4) sections, two (2) of which shall be lettered "A" and two (2) "B." Any resident who has paid said fee and procured such license to hunt game animals and game birds, may, during the open season hunt, take and kill one (1) moose, two (2) deer, and also game birds, in the manner and subject to the limitations and conditions prescribed by this chapter and amendments thereto, and may ship by common carrier in the manner herein provided, and not otherwise, to any point in the county in which he resides, one (1) moose, and two (2) deer, or any part thereof, and fifty (50) game birds, in two shipments of not to exceed twenty-five (25) birds each, so lawfully shot or had in his possession. Said game animals and game birds may be shipped by said licensee to himself at his place of residence by common carrier, upon attaching to such game animals or any part thereof, or game birds, respectively, section

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"B" of said coupon. Upon receiving such game it is made the duty of said common carrier to detach from the license section "A" of said coupon, and at once forward the same by mail to the game and fish commission.

Provided, however, that nothing in this chapter contained shall be deemed or construed to prevent any resident of this state from personally carrying with him, as baggage, on any train or conveyance, any game birds or fish which may be legally in his possession, and any common carrier is hereby permitted to carry any such game birds or fish as baggage, when the same is so accompanied and carried on the same train or conveyance by the person who is legally in possession of the same.

Provided, further, that nothing herein contained shall be construed to permit employes of a common carrier to carry any such game birds, animals or fish or parts thereof with them, whether as baggage or otherwise, while engaged in the performance of the duties of their said employment, and they are specifically prohibited from so doing. Provided, further, that sections A and B of each said coupons shall have printed thereon the words "signature of consignor," and so arranged as to provide a blank space for such signature. At any time of shipping by any common carrier of any game birds or animals, or part thereof, the consignor named in such license shall personally sign his name to said sections A and B in the presence of two witnesses, one of whom shall be the agent of said common carrier. The shipment of any game bird or game animal by any common carrier or agent thereof, or by any person except after full compliance with the provisions of this section, is hereby made unlawful.

Whosoever shall offend against any of the provisions of this section, shall be guilty of a misdemeanor, and upon conviction be punished by a fine of not less than fifty (50) nor more than one hundred (\$100) dollars and costs of prosecution, or by imprisonment in the county jail for not less than thirty (30) nor more than ninety (90) days for each and every offense.—G. L. 1905, Chap. 344, § 34, as amended G. L. 1907, Chap. 469.

§ 1522. **Non-resident license—Shipment of game.**—Every person not a resident of this state is prohibited from hunting, taking or killing any game bird or game animal unless he shall have first procured a license therefor from the game and fish commission. Said commission shall upon application issue to any non-resident, a license to hunt game animals, upon the payment to it of a license fee of twenty-five dollars (\$25) and to hunt game birds upon the payment to it of a license fee of the game and fish commission. Sections "B" and "C" of said coupon must remain on said game birds while in transit in this state, and section "C" of said coupon must be detached by said common carrier at the last station or place in this state where the train or conveyance of such common carrier shall stop, and it shall be the duty of said common carrier to forward section "C" of said coupon to the game and fish commission immediately upon being detached.

Said licenses shall not be transferable, and it is hereby made the duty of said licensee to exhibit the same to any person upon request.—G. L. 1905, Chap. 344, § 35.

§ 1523. **Forfeiture of license.**—Any person who shall violate any of the provisions of this chapter and who is at the time of such violation in the possession of a license duly issued to him, shall, upon conviction thereof, forfeit such license to the State of Minnesota, and such person shall deliver to the court before whom he was tried any such license, and the court shall forward the same to the commission.—G. L. 1905, Chap. 344, § 36.

§ 1524. **Retaining game—Tags—Penalty.**—Any person who is a resident of this state and legally in possession of any of the game birds or game animals, or any part thereof, which have been caught, taken or killed at a time or in a manner permitted by the provisions of this chapter, and who is desirous of retaining possession of the same for his

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own use after the time in this chapter limited, and who shall before such time make application to the commission for leave to retain the same, which application shall be in writing and signed or sworn to by the applicant, and shall state:

First—The name and residence of the person in possession of such birds or animals, or parts thereof.

Second—The number, kind and location of said birds or animals or parts thereof, which number shall not exceed forty-five (45) turtle dove, prairie chicken, pinnated, white-breasted or sharp-tailed grouse, quail, partridge, ruffed grouse or pheasant, woodcock, upland plover or golden plover, or any or all of the same combined, or fifty (50) snipe, wild duck, goose, brant or any variety of aquatic fowl whatever, or any or all of the same combined, two (2) deer or the parts thereof, one (1) male moose or the parts thereof for each applicant.

Third—That if permitted to retain the same by said commission the applicant will retain possession of said birds and animals for his own use and will not ship, sell or dispose of the same.

If said commission is satisfied that said application is made in good faith and said applicant will keep said birds and animals and parts thereof for his own use and not for sale, the said commission shall cause tags or seals, which shall not be duplicated by others, and which shall not be removed, to be attached to each bird or animal, or parts thereof, not exceeding forty-five (45) turtle dove, prairie chicken, pinnated, white-breasted or sharp-tailed grouse, quail, partridge, ruffed grouse or pheasant, woodcock, upland plover or golden plover, or any or all of the same combined; or fifty (50) snipe, wild duck, goose or brant or any varieties of aquatic fowl whatever, or any or all of the same combined; two (2) deer or the parts thereof and one (1) male moose, or the parts thereof, for each applicant; or in lieu thereof, if any applicant therefor resides at a distance from any game warden, then the commission may issue to such applicant a written permit to keep and use such game.

The person making such application shall, before said tags or seals are attached, pay to the commission the reasonable expense of making and attaching such tags and seals.

After the tags and seals have been so attached, or such permit received, the person holding such permit may, while the tags or seals remain upon said birds and animals and parts thereof, retain possession of the same until consumed; provided, that nothing in this chapter contained shall prevent a person from disposing of as a gift any of the birds and animals mentioned herein. The having in possession of any game bird or animal or any part thereof which is not so tagged and sealed, or for which a retention permit has not been received, except during the open season and five (5) days thereafter, is hereby made unlawful. Any such game bird or game animal, or any part thereof, had or held in possession by any person during the season when it is unlawful to have the same in possession, is hereby declared contraband and the right of any such person to retain or use the same shall cease. Any person who shall destroy, imitate or duplicate any tag or seal attached to any bird or animal, or part thereof, or who shall ship, sell or dispose of any bird or animal, or any part thereof, which has been tagged or sealed as aforesaid, or for which a permit to keep and use the same has been issued, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five (\$25) nor more than fifty dollars (\$50) and costs of prosecution, or by imprisonment in the county jail for not less than thirty (30) nor more than sixty (60) days for each and every bird or animal or part thereof, so shipped, sold or disposed of.—G. L. 1905, Chap. 344, § 37.

§ 1525. **Mink, muskrat and beaver.**—No person shall take, catch or kill any beaver at any time or any mink or muskrat between the fifteenth day of April and the fifteenth day of November following, and no person shall molest, injure or destroy any muskrat house at any time. Provided, that when any of the animals mentioned in this section are

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doing damage to or destroying any property, the person whose property is being damaged or destroyed may kill them at any time."—G. L. 1905, Chap. 344, § 38, as amended G. L. 1907, Chap. 469, as amended G. L. 1909, Chap. 412.

§ 1526. **Harmless birds—Game birds defined.**—No person shall catch, take, kill, ship or cause to be shipped to any person within or without the state, purchase, offer or expose for sale, sell to any one, have in possession with intent to sell, or have in possession or under control at any time, living or dead, any wild bird other than a game bird, nor any part thereof, and for the purposes of this chapter the following only shall be considered game birds. The Antidas, commonly known as swan, geese, brant, river and sea ducks, the linolae, commonly known as plover, snipe and woodcock; the gallinae, commonly known as grouse, prairie chickens, pheasants, partridges and quail; provided, that black-birds, crows, English sparrows, sharp-shinned hawks, cooper hawks and greathorned owls may be killed and had in possession at any time; but nothing herein contained shall be construed to prevent the keeping and sale of song birds as domestic pets.—G. L. 1905, Chap. 344, § 39.

TITLE III.—FISH.

§ 1527. **Fish may be taken, when.**—No person shall catch, take, kill or have in possession or under control, for any purpose whatever, any of the fish hereinafter mentioned within the periods herein limited, to-wit: Any variety of trout, except lake trout, between the first day of September and the fifteenth day of April following; any black, grey or Oswego bass between the first day of March and the twenty-ninth day of May following; any variety of pike, muskallonge, crappie, perch, sun-fish, sturgeon, catfish or any other variety of fish between the first day of March and the first day of May following.—G. L. 1905, Chap. 344, § 40.

§ 1528. **Manner of taking.**—No person shall catch, take or kill more than twenty-five (25) fish, except sunfish, perch, pickerel or bullheads, in any one day, nor in any other manner than by angling for them, with a hook and line held in the hand, or attached to a rod so held, nor with more than one line or with more than one hook attached thereto; and no person shall have in his possession any fish caught, taken or killed in any of the waters of this state except as provided in this chapter.—G. L. 1905, Chap. 344, § 41, as amended G. L. 1907, Chap. 469.

§ 1529. **County commissioners to designate trout streams.**—Upon petition of not less than one hundred legal voters of any county in this state, it shall be the duty of the county commissioners of such county to designate the streams therein which are suitable for the growth or propagation of brook trout, and by order or resolution of the board of such county commissioners, which shall be filed in the office of the county auditor of such county and published along with the proceedings of such board had at the time such resolution or order shall be made, designate and describe such streams and state the points between which in said county such streams shall be suitable for the growth and propagation of such trout, and such commissioners shall attach to such order or resolution a map or diagram of said county, showing the name and general location of such streams and the points upon the same between which such streams shall be suitable for the growth and propagation of brook trout.—G. L. 1909, Chap. 346, § 1.

§ 1530. **Statement to be filed with county auditor.**—Any person or persons who shall place and set free in any of said streams, between the points so designated, trout fry, furnished from any fish hatchery authorized by the laws of this state, or of the United States, to such an amount and in such numbers as shall equal 1,000 fry for every mile or major fraction thereof, of such stream between the points designated, may file in the office of the auditor of such county, and in the office of the town clerk of each town, and the clerk or recorder of such village through which any such trout stream shall run, an affidavit or affidavits corroborated by one or more witnesses, to the said facts, stating the

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time when, and place where such fry were so deposited, the approximate number thereof so placed and freed, and the name of the stream in which the same were so placed, for the filing of which affidavit the county auditor, town clerk and village recorder shall be entitled to the fee of ten cents to be paid by the person offering such affidavit for filing.—G. L. 1909, Chap. 346, § 2.

§ 1531. **Unlawful to fish in trout streams for two years thereafter.**—From and after ten days from the filing of such affidavit or affidavits and the depositing of such trout fry as aforesaid, of which facts a duly certified copy of such affidavit, with copy of certificate of filing thereon duly certified by the officer in whose office such affidavit is filed, shall be prima facie evidence, and for two years thereafter, it shall be unlawful for any person at any season or time of the year, except such time or season as shall be allowed by law for the catching of brook trout in such streams in this state, to fish or to attempt in any manner to fish, or to have hook and line or any other device for catching fish, in, or extending into or over such stream.

Any person violating the provisions of this act shall be guilty of a misdemeanor.—G. L. 1909, Chap. 346, § 3.

Licenses for fishing with nets—Tag to be furnished—What fish must be returned to water—To expire on April 1st—Application and fee—Bond required—Commission to keep record—Licensees given right to construct temporary fish pond—Violation a misdemeanor.

§ 1532. It shall be unlawful and is hereby prohibited to take, or attempt to take, any fish by any other methods than by angling or trolling with hook and line, or by use of licensed set lines, or for the purpose of propagation when taken by the superintendent of fisheries or his duly authorized agents, or taking rough fish by the aid of spears in the day time, without first having complied with all of the requirements of this act. The state game and fish commission shall upon application therefor issue to any person a license to set, use and operate seines and pound nets of not more than one and one-half inch bar in the pot, and fyke or hoop nets of not more than one and one-half inch bar back of the tail hoop, and gill nets of not less than four inch bar, bait nets without leads with four foot hoop front, twenty-one inch tail hoop, not more than fifteen feet in length, two-inch bar in front, and one and one-half inch bar between throats, and one and one-quarter inch bar between fish hooks; turtle nets of three and one-half inch bar, from June 1st, to April 1st of the following year, in that part of St. Croix river known as Lake St. Croix, that part of the Mississippi river known as Lake Pepin and the Mississippi river, where they form the boundary line between the state of Minnesota and Wisconsin, for the purpose of catching and taking all fish except pike of any variety, bass of any variety, perch, sunfish, and crappies or buffalo fish of less than three pounds round or undressed weight. Such nets shall not be set, used and operated except in the manner hereinafter provided, and then only in compliance with such rules and regulations as are or may hereafter be prescribed by law. Set lines may be licensed for use in said waters for catching catfish and sturgeon only. A metal tag shall be furnished by the state game and fish commission for each one hundred yards or fraction thereof of set lines so licensed, but no more than ten such tags shall be issued with each license. A metal tag shall also be furnished for each two thousand feet of gill net or fraction thereof, each pound with seven hundred feet of leads, five hundred feet of seine or fraction thereof, fyke, hoop, bait or turtle net so licensed.

Every licensee shall immediately return to the water from which the same have been taken all fish above enumerated when taken in any net used by him, or under his supervision or control, and the possession of said fish by said licensee, shall be deemed to be prima facie evidence of a violation of this act.

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Licenses issued under the provisions of this act shall expire on the first day of April succeeding the date of their issuance, and shall not be transferable.

Any person who shall desire to set, use and operate a net or nets or set lines under the provisions of this act, shall make application to the state game and fish commission therefor upon blanks to be furnished by them and shall accompany such application with a fee of five (\$5.00) dollars for each two thousand (2,000) feet of gill net or fraction thereof; five (\$5.00) dollars for each seven hundred (700) feet of pound net leaders or fraction thereof, with one pound, and for each additional pound shall pay an additional fee of five (\$5.00) dollars; two (\$2.00) dollars for each two (200) hundred lineal feet of seine or fraction thereof, or for each fyke or hoop net; one (\$1.00) dollar for each bait or turtle net; one (\$1.00) dollar for each one thousand (1,000) yards of set line or fraction thereof. Each application shall also be accompanied by twenty-five (25c) cents for each metal tag required.

Before any such license shall be issued the applicant shall execute and deliver to the state game and fish commission a bond running to the state of Minnesota in the sum of two hundred (\$200) dollars, with two sureties, conditioned that if the applicant shall well and faithfully observe and comply with all of the requirements of this act and the rules and regulations which are, or may hereafter be prescribed by law, said obligation to be null and void, otherwise to remain in full force. Each such surety shall be worth at least the sum of two hundred (\$200) dollars in property in this state over and above all debts and liabilities, and property exempt by law from sale by execution.

The state game and fish commissioners shall keep in their office a complete record of all licenses issued under this section and all moneys received for same shall be paid to the state treasurer and credited to the state game and fish commission fund.

Licenseses operating nets under the provisions of this act are hereby permitted to construct temporary fish ponds for the purpose of keeping fish therein until the same can be marketed, provided that fish so taken may be shipped to points within or without this state at any time and in any quantity.

Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall, upon conviction thereof, forfeit his bond, and be punished by a fine of not less than fifty (\$50) dollars nor more than one hundred (\$100) dollars and the costs of prosecution, or by imprisonment in the county jail of the county in which such offense was committed, not less than sixty (60) nor more than ninety (90) days, or both such fine and imprisonment, in the discretion of the court.—G. L. 1909, Chap. 501, amending Chap. 186, G. L. 1905, as amended by Chap. 315, G. L. 1907.

§ 1533. Fishing with nets or seines prohibited in certain cases.—No person shall take any fish with nets or seines in any lake situated within the territorial limits of any city having a population of not less than twenty thousand nor more than fifty thousand according to the last preceding state or national census, when the shores of such lake are wholly or partially under control and management of a board of park commissioners, unless permission so to take such fish shall have been granted by such board of park commissioners. Such board shall have power to require payment from the person to whom such permission may be granted for the privilege of so taking fish, and all moneys paid for such privilege shall be placed in the city park fund of such city to be used for the maintenance of its public parks.

Any person who shall take or attempt to take any fish contrary to the foregoing requirements shall be guilty of a misdemeanor punishable by fine or imprisonment as provided by section 4763 of the Revised Laws of Minnesota. (See § 919 this manual.) Nothing contained in this act shall deprive the game and fish commission of its general control of and

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supervision over fishing with nets and seines under the laws of this state.—G. L. 1907, Chap. 315, as amended G. L. 1909, Chap. 32.

§ 1534. **Regulation of pound nets in Mississippi river and Lake St. Croix.**—That no pound nets or string of pound nets licensed to be used or set in that part of the St. Croix river known as Lake St. Croix, that part of the Mississippi river known as Lake Pepin, and the Mississippi river, where they form the boundary line between the states of Minnesota and Wisconsin, under chapter 315, General Laws of Minnesota for 1907, shall be set less than 1,000 feet apart, and the leads of said nets or string of nets shall not extend nearer than 500 feet from the middle line of said waters.

Provided, that in part of the Mississippi river known as Lake Pepin, and in the Mississippi river from the mouth of Lake St. Croix to the southern boundary line of this state, such nets shall not be set less than one thousand feet apart, and the leads of such nets or strings of nets shall not extend nearer than five hundred feet from the middle line of said waters, nor nearer than two hundred and fifty feet to the shore line.

Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine of not less than \$25.00 nor more than \$100.00 and costs of prosecution.—G. L. 1909, Chap. 65.

§ 1535. **Non-residents to secure license.**—Every person not a resident of this state is prohibited from trapping mink, muskrat, otter and beaver in this state unless he shall have first procured a license therefor from the game and fish commission. Such commission shall upon application issue to any non-resident a license to trap mink, muskrat, otter and beaver, upon the payment of a license fee of ten dollars (\$10.00), which license shall expire on the 31st day of December following its issuance.—G. L. 1909, Chap. 66, § 1.

§ 1536. **Penalty for violation.**—Every person violating the provisions of this act shall be guilty of a misdemeanor.—G. L. 1909, Chap. 66, § 2.

§ 1537. **Commission may issue license.**—That the State Game and Fish Commission may, in its discretion, issue to any proper person a license to fish for and take, catch or capture with seines carp, dogfish, garfish, sheephead, buffalo and suckers in any of the waters under the jurisdiction of this state, except that portion of the Mississippi river and Lake St. Croix which form the boundary between the states of Minnesota and Wisconsin.

Provided, however, that such person using or operating such nets or seines for the taking of such fish shall do so only under the direction and personal supervision of a duly commissioned game warden. Every person obtaining such license shall pay to the game and fish commission a reasonable sum for compensation and expenses of the warden for such time actually employed by him in such supervision, not to exceed the sum of \$2.50 for compensation per day.—G. L. 1909, Chap. 54, § 1.

§ 1538. **Application, how made.**—Application for such license to use nets or seines as herein provided shall state the name and residence of the applicant, the number and the size of the nets he intends to use and operate, and the waters in which he intends to use or operate such net or seine. Before any such license shall be issued the applicant shall execute and deliver to the game and fish commission a bond running to the State of Minnesota in the penal sum of \$200.00 with two sureties to be approved by said game and fish commission, and conditioned, that if the person to whom such license is issued shall well and faithfully observe and comply with all the requirements of this act, and with the provisions of the license issued thereunder, said obligation to be null and void, otherwise to remain in full force and effect, and shall also pay to the state game and fish commission a fee of \$5.00 for every 500 feet or fraction thereof of such seine or net to be so used or operated.—G. L. 1909, Chap. 54, § 2.

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§ 1539. **License prohibited in certain cases.**—That no license shall be issued by virtue of the provisions of this act for the use of any net with a mesh less than four inches bar in the pot, and that it shall be unlawful for any person using or operating a seine or net under the provisions of this act to use any seine or net having a smaller mesh than as herein provided.—G. L. 1909, Chap. 54, § 3.

§ 1540. **License not to be issued to officers of the commission.**—That no license to use seines or nets under the provisions of this act shall be issued or granted to any person duly commissioned to act as a game and fish warden under the laws of this state; or to any person who has within two years prior to the date of his application been convicted of a violation of any provision of the game and fish laws; and that it shall be unlawful for any duly and properly commissioned game and fish warden of the state of Minnesota to be a partner of, or in any way or manner financially interested with any person who shall fish for, take or capture by the use of seines or nets, any of the kinds of fish mentioned herein.—G. L. 1909, Chap. 54, § 4.

§ 1541. **Certain fish to be returned to water.**—Any person licensed by the provisions of this act to take any of the kinds of fish herein mentioned, shall immediately after the use and drawing of the nets and seines, return unharmed to the water any and all fish of any kind and description not by the terms of this act expressly permitted to be taken by the use of nets or seines.—G. L. 1909, Chap. 54, § 5.

§ 1542. **Prescribed time for operation.**—It shall be unlawful for any person using or operating a seine or net under a license issued according to the provisions of this act, to fish for, take, or capture any fish whatever, whether mentioned by the provisions of this act or not, at any time between the first day of May and the first day of October of any year; provided, however, that the provisions of this section shall not apply to any lakes or waters which form a boundary between the state of Minnesota and any other state.—G. L. 1909, Chap. 54, § 6.

§ 1543. **Penalty.**—Any person or persons who shall violate any of the provisions of this act, or any of the terms of any license issued by the state game and fish commission under the authority of this act, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than \$25.00 nor to exceed the sum of \$100.00, or by imprisonment in the county jail for a period of not less than thirty days nor to exceed ninety days.—G. L. 1909, Chap. 54, § 7.

§ 1544. **Netting in Mississippi river within state.**—Except in certain portions of the Mississippi river hereinafter defined, and in certain defined boundary waters of the state, a pound net, seine or dip net may be used in the Mississippi river from the falls of St. Anthony to a point one thousand (1,000) feet above the mouth of the St. Croix river for catching sturgeon, redhorse, dogfish, buffalo fish, catfish, pickerel, carp and suckers, but no such net or seine shall be used within a distance of one thousand (1,000) feet from the mouth of any stream, and that the said pound net shall not exceed seventy-five feet in length, and the length of such seine shall not exceed one hundred and fifty (150) feet. The mesh in said net or seine shall not be less than two and one-half (2½) inches in the bar and five (5) inches when the same is extended, and before any such pound net or seine is used the person desiring to use the same shall first make application therefor to the game and fish commission of this state for permission to use such net or seine, which application shall state the name of the person and the place where the applicant desires to use the same, and which application shall be accompanied by a fee of five dollars (\$5.00) for every net desired to be used.

The commission may issue such a permit for the use of such net or seine to such applicant, which permit shall be for one season only. The person to whom such permit or license is issued shall not change the location of such net or seine without first giving written notice of his intention to do so to the commission, and in such notice describing the

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place to which he intends to remove his or her net or seine.—G. L. 1905, Chap. 344, § 42.

§ 1545. **Netting in international waters—Penalty.**—The game and fish commission is hereby authorized to license the use, in international waters, of pound nets of the character and subject to the regulations hereinafter contained, and to issue licenses therefor.

The size of the mesh of the pot or pound of the pound net shall not be less than one and three-quarters ($1\frac{3}{4}$) inches, bar measure, or three and one-half ($3\frac{1}{2}$) inches extension measure. Said pound nets may be set in strings, but no string of such nets shall exceed three (3) in number and the leads of such nets shall in no case exceed the following lengths: The shore lead eighty (80) rods and the leads between the pounds or pots fifty (50) rods in length. Said net or string of nets shall not be less than twenty-five hundred (2,500) feet apart, nor within five hundred (500) feet of the mouth of any stream, and for every ten (10) miles of net set there shall remain an open space of five (5) miles where no net shall be set, which five (5) miles space shall be in excess of the twenty-five hundred (2,500) feet above mentioned. Any one desiring to use such nets or string of nets shall, before so doing, make written application for such privilege to the commission, setting forth therein the name of the applicant, the number of nets desired to be used, with an accurate description in detail of each net, the waters in which it is desired to set in, and a statement of the location of all other nets then in use in such waters situated within five thousand (5,000) feet of the place where it is desired to set such nets, which application shall be accompanied by a license fee of twenty-five dollars (\$25) for each net. The commission may issue a license to the applicant who shall be a citizen of the United States. Said license shall not be transferable and shall be good for one (1) fishing season only. Said license shall permit the use of so many of said nets at the place indicated in said application as the commission shall deem for the best interest of the state. Said commission shall retain twenty-five dollars (\$25) for each net so licensed. The commission shall not issue to any one person for the use or benefit of such applicant a license to use more than fifty (50) nets during a single fishing season and whenever more than one person shall apply for a license to fish in the same locality, the priority of such application shall be determined in such manner as the commission may designate. No such license shall be issued authorizing the use of any net or nets in international waters between the first day of April and the twentieth day of May following, and it shall be unlawful for any person to assist in placing or place any such net during such season:

Each applicant to whom a license is issued shall make a written report at the end of such fishing season to said commission, stating the number of nets used and where used by him, and the amount in number, kind and the pounds of each kind of fish taken by him in each net.

Any pound net, seine or dip net which is being used without a license or any pound net, seine or dip net which is being used in violation of a license, issued for its use, is hereby declared to be and is a public nuisance, and it shall be the duty of all the members of the commission, game wardens, sheriffs and their deputies, police officers and constables, without warrant or process, to take, seize, abate and destroy any and all of the same.

The commission, game wardens, sheriffs, and their deputies, police officers and constables, shall seize any and all nets and seines when illegally used and all fish taken therewith, and at once report the seizure to the commission.

Every person using, aiding or abetting the use of any such net contrary to the provisions of this section, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of one hundred dollars (\$100) or by imprisonment in the county jail for ninety (90) days for each and every net so illegally used.—G. L. 1905, Chap. 344, § 43.

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§ 1546. **Not to fish within fifty feet of fishway.**—No person shall catch, take or kill any fish in any lake or stream within fifty (50) feet of any fishway and then only with hook and line, or have in his possession or under his control any fish so caught, taken or killed.—G. L. 1905, Chap. 344, § 44, as amended G. L. 1909, Chap. 453.

§ 1547. **Use of drugs, dynamite, traps, etc.**—No person shall lay, set, use or prepare any drug, poison, lime, medicated bait, nets, fish berries, dynamite or other explosives, or any other deleterious substance whatever, or lay, stretch or place, any tip-up, snare or net or trot line or any wire string, rope or cable of any sort in any of the waters of this state with intent to thereby or therewith catch, take or kill any fish.—G. L. 1905, Chap. 344, § 45, as amended G. L. 1907, Chap. 469.

§ 1548. **Fish houses may be used for catching certain fish on securing the proper permit.**—No person shall erect, have or maintain upon the ice of any waters of this state any fish house, structure, enclosure or shelter whatever to protect the person of the occupant while engaged in fishing through the ice.

Except, that on all inland lakes of this state, and on all interstate waters over which the state of Minnesota has concurrent jurisdiction with sister states, a fish house may be used for the purpose of taking pickerel, carp, buffalo, bullheads, suckers and redhorse from the 15th day of December to the 1st day of April following; provided, further, that any person desiring to use such house shall first make application for a permit for such use to, and obtain such permit from the game and fish commission, stating that the same is to be used by him for the purpose of obtaining fish for his domestic use and not for commercial purposes, which application shall be accompanied by a fee of one dollar, but no such person shall be permitted to use more than one fish house, and upon the payment of such fee said permit shall be issued and granted. Provided, further, that the game and fish commission may withhold permission to erect fish houses on certain lakes, where conditions, in their opinion, warrant it.—G. L. 1905, Chap. 344, § 46, as amended G. L. 1909, Chap. 376.

§ 1549. **Catching of walleyed pike prohibited in certain lakes.**—No person shall have in possession for sale, or with intent to sell, expose or offer for sale, or sell to any person any walleyed pike caught in any lake or waters of this state which may have been heretofore or shall hereafter be stocked with walleyed pike fry of the game and fish commission of this state, at any time, or shall cause to be shipped or have in possession with intent to ship for purpose of sale to any person either within or without the state any such fish, or have any such walleyed pike in his possession except during the season for taking same.

§ 1550. **Violation a misdemeanor.**—Any person violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$10.00 nor more than \$50.00 and costs of prosecution, or by imprisonment in the county jail for not less than ten days, nor more than sixty days for each offense.—G. L. 1909, Chap. 403, § 2.

§ 1551. **Sale trout, black and gray bass.**—No person shall have in possession for sale, or with intent to sell, expose or offer for sale or sell to any person, any brook trout, or gray, black or Oswego bass, at any time, or ship, cause to be shipped, or have in possession with intent to ship, to any person either within or without the state, any such fish, or have any black, gray or Oswego bass in his possession except during the season for taking the same, or any trout during the closed season, except they are caught in a private hatchery.—G. L. 1905, Chap. 344, § 47, as amended G. L. 1907, Chap. 469.

§ 1552. **Size of fish to be taken.**—No person shall at any time catch, take, kill or have in possession or under control any fish for any purpose whatever, except minnows for bait, rock bass, sunfish and bullheads that are less than six inches in length. Any person catching such

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fish shall at once return same to the water from which they are taken with as little injury as possible.

No person shall take, kill, have in possession for sale or with intent to sell, offer or expose for sale, or have in possession or under control for any purpose whatever any lake trout or whitefish of less than two pounds, round or undressed weight, or one and one-half pounds, dressed weight, or any walleyed pike of less than fourteen inches in length or one pound round or undressed weight, or any muskallonge less than thirty inches in length, or any blue pike or sangers of less than ten inches in length. Measurement in each case to be made from the tip of the snout to the fork of the tail. Any such fish when caught shall be immediately returned to the water.—G. L. 1905, Chap. 344, § 48.

§ 1553. **Fishing in Lake Superior.**—Fish of any description shall not be caught with nets or seines in the waters of Lake Superior under the jurisdiction of the State of Minnesota, between the 1st day of November and the 30th day of the same month. No person shall take, catch or have in possession or under his control for any purpose whatever, any sturgeon caught in Lake Superior prior to June 1st, 1910.

Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not less than one hundred (\$100) nor more than five hundred (\$500) dollars, and costs of prosecution, or by imprisonment in the county jail for not less than thirty (30) nor more than ninety (90) days for each and every net so used, had or maintained.—G. L. 1905, Chap. 344, § 49, as amended G. L. 1907, Chap. 469.

§ 1554. **Shipping outside of state.**—No person shall ship, have in possession with intent to ship or cause to be shipped beyond the borders of this state any fish of the kinds mentioned in this chapter, except as herein provided, except that the commission may give a written permit to any responsible person (a bona fide resident of this state) to ship fish commonly known as bullheads, buffalo fish, carp, redhorse, suckers, sheephead, eel-pout, garfish, dogfish, sturgeon and catfish out of the state upon such reasonable conditions as it may adopt. Provided further, that any non-resident of this state who is desirous of taking any fish beyond its borders for his personal use may carry with him on the same train or conveyance, not to exceed fifty pounds of fish caught by him. Provided further, that all boxes and packages containing fish, or all boxes, bags, or packages of any description used in shipping fish, either within or without this state, shall be plainly marked with the name and address of the consignor and consignee, and with the contents of the package.—G. L. 1905, Chap. 344, § 50.

§ 1555. **Sale of fish prohibited, when.**—No person shall sell, have in possession with intent to sell, or offer for sale any fish caught in any lake situated partly or wholly within a county in this state that has a population of one hundred and fifty thousand, or over.—G. L. 1905, Chap. 344, § 51.

TITLE IV.—MISCELLANEOUS PROVISIONS.

§ 1556. **Game and fish taken in one day.**—No person shall wantonly waste or destroy any of the birds, animals or fish of the kinds mentioned in this chapter. The catching, taking or killing of more than fifteen birds by any one person in any one day, or the catching, taking or killing of more than twenty-five fish by any one person in any one day, except fish caught, taken or killed in the Mississippi river or international waters with nets or seines, as by this chapter permitted, shall be deemed a wanton waste, and destruction of all such birds or fish caught, taken or killed in excess of such number.—G. L. 1905, Chap. 344, § 52.

§ 1557. **State parks.**—No person shall pursue, hunt, take, catch, or kill any wild bird or animal of any kind within the limits of any territory set apart, designated, used or maintained as a state public park, or within one-half mile of the outer limits thereof or have any such bird or animal or any part thereof in his possession or under his control within said park or within one-half mile of said outer limits.

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No person shall have in his possession within any such park or within one-half mile of the outer limits thereof, any gun, revolver, or other firearm unless the same is unloaded, and except after the same has been sealed by the park commissioer or a deputy appointed by him, and except also such gun or other firearm at all times during which it may be lawfully had in such park remains so sealed and unloaded. Upon application to the park commissioner or any deputy appointed by him, it is hereby made his duty to securely seal any gun or firearm in such a manner that it cannot be loaded or discharged without breaking such seal. The provisions of this section shall apply to all persons including Indians.—G. L. 1905, Chap. 344, § 53.

§ 1558. **Sale of game by commission.**—The game and fish commission is hereby authorized to sell to residents of this state at the highest market price obtainable therefor, all furs, fish, game, game animals or game birds now or which may hereafter come into its possession. The proceeds thereof shall be turned into the state treasury and credited to the game and fish commission funds. A record of such sales, including the name of the purchaser and the price paid, shall be kept by the commission. Said commission shall, before selling, tag the same in a manner to be determined by it.—G. L. 1905, Chap. 344, § 54.

§ 1559. **Game shall not be resold.**—Fish, game, game animals and game birds, or any part thereof, sold pursuant to the terms of the foregoing section, shall not be resold, offered for sale or held for the purpose of sale, or otherwise disposed of, to any other person by said purchaser. Said game shall not be bought or taken into possession by any person other than said purchaser from the commission.—G. L. 1905, Chap. 344, § 55.

§ 1560. **Obstructing commission—Gathering spawn.**—No person shall obstruct the commission, its executive agent or any warden appointed by it while engaged in gathering fish spawn, nor shall any person place in any stream or river any logs or other debris at any time when said commission and its employees are gathering spawn, or about to gather spawn or catch fish for that purpose in any such stream or river. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor. The commission may institute a civil action in the name of the state to recover from any person or persons obstructing it in the performance of its duties, or who shall place logs or other debris in such stream, for all damages resulting therefrom, and in addition thereto may in such action enjoin such party or parties from doing the acts hereby prohibited.—G. L. 1905, Chap. 344, § 56.

§ 1561. **Appropriation.**—The sum of thirty-five thousand dollars (\$35,000), or so much thereof as may be necessary, is hereby appropriated annually, commencing August 1st, 1905, for the purpose of carrying on and enforcing the provisions of this chapter, to be paid for such purpose out of any moneys in the state treasury not otherwise appropriated.—G. L. 1905, Chap. 344, § 57.

§ 1562. **Illegal use of coupons.**—Any person who uses any coupon described in this chapter other than those issued and delivered to him personally by the county auditor in the shipping or transporting of any game bird or animal or any part thereof, or uses such coupon for any purpose or in any manner other than in this chapter authorized shall be guilty of a misdemeanor.—G. L. 1905, Chap. 344, § 58.

§ 1563. **Coupons—Conspiracy.**—Any person who solicits, or directly or indirectly procures the issuance and delivery of any such coupon to any fictitious person or persons other than himself and uses it in any manner, or who obtains possession of any such coupon and delivers it to any person, or who solicits or procures the shipment to himself or any third person, from another, of any game bird or game animal or any part thereof, or who solicits another to come to Minnesota and hunt without having a license, or who hunts with another knowing he has not procured and is not in possession of a license, or who takes or uses the license of another person or coupon from such license, shall

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be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not less than fifty (\$50) dollars, nor more than one hundred (\$100) dollars, or by imprisonment in the county jail not less than thirty (30) nor more than ninety (90) days for each and every offense.—G. L. 1905, Chap. 344, § 59, as amended, G. L. 1907, Chap. 469.

§ 1564. **Cold storage.**—The placing or receiving within or storage of any game bird or game animal, or any part thereof, in any cold storage plant is hereby prohibited and made unlawful.—G. L. 1905, Chap. 344, § 60.

TITLE V.—PENALTIES.

§ 1565. **Resisting commissioner or warden.**—Whoever shall resist or obstruct the executive agent of said commission, or any member thereof, or any warden or other officers of this state, in the discharge of his duties under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not less than fifty (50) nor more than one hundred (100) dollars and costs of prosecution, or by imprisonment in the county jail for not less than sixty (60) nor more than ninety (90) days for each and every offense.—G. L. 1905, Chap. 344, § 61.

§ 1566. **Killing, selling, buying or shipping moose and deer.**—Any person who takes or kills, has in possession, has in possession with intent to sell, sells, offers or exposes for sale, ships by common carrier, conveys or causes to be conveyed, has in possession with intent to so ship, or to convey in any manner, to any point within or without this state, any moose, deer, or any part thereof, including the hides and horns, or any person who buys any such game animal, or any part thereof, in violation of any of the provisions of this chapter, or any common carrier or agent thereof who ships or aids or abets any person in shipping any such game animal or any part thereof, or has possession of the same with intent to ship or transport or convey to any point either within or without this state, contrary to any of the provisions of this chapter, shall be guilty of a misdemeanor and be punished by a fine of not less than fifty (50) or more than one hundred (100) dollars and costs of prosecution, or by imprisonment in the county jail for not less than thirty (30) nor more than ninety (90) days for each and every moose or deer, or any part thereof, including the hide and horns, taken, caught, killed, sold, offered or exposed for sale, had in possession, or had in possession with intent to sell, shipped by common carrier or conveyed in any manner, or had in possession with intent to so ship, or transport to any point within or without this state in violation of any provisions of this chapter: provided, however, that such fine shall not exceed two thousand (\$2,000) dollars, or such imprisonment exceed the term of one (1) year.—G. L. 1905, Chap. 344, § 62.

§ 1567. **Taking, killing, selling, or shipping game birds and fish.**—Any person who takes, catches, or kills, has in possession, or has in possession with intent to sell, sells, offers or exposes for sale, ships by common carrier, conveys or causes to be conveyed, has in possession with intent to so ship or convey to any point either within or without this state, any game bird or fish, or any part thereof, in violation of any of the provisions of this chapter, or any common carrier or agent thereof who aids or abets any person in shipping such game birds or fish, or has the same in possession with intent to ship or convey, to any point either within or without this state, contrary to any of the provisions of this chapter, shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not less than ten (10) nor more than one hundred (100) dollars and costs of prosecution, or by imprisonment in the county jail for not less than ten (10) nor more than sixty (60) days for each and every game bird or fish or part thereof, taken, caught, killed, sold, offered or exposed for sale, had in possession, or had in possession with intent to sell, shipped by common carrier, or transported in any manner, or had in possession with intent to so ship or transport to any point within or without this state in violation of any of the provisions of this chapter;

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provided, however, that such fine shall not exceed two thousand (2,000) dollars or such imprisonment exceed the term of one (1) year.—G. L. 1905, Chap. 344, § 63.

§ 1568. **Attempts.**—Any attempt to violate any of the provisions of any section of this chapter shall be deemed a violation of such provision, and any person attempting to violate any of the provisions of any section of this chapter shall be guilty of a misdemeanor, and upon conviction thereof punished by a fine of not less than ten (10) nor more than fifty (50) dollars, and costs of prosecution, or by imprisonment in the county jail for not less than ten (10) nor more than sixty (60) days for each and every offense.—G. L. 1905, Chap. 344, § 64.

§ 1569. **Hunting without license.**—Any person either a resident or non-resident of this state who shall hunt, take or kill any of the game birds or game animals in this state, without having first procured a license therefor as provided in this chapter, shall be guilty of a misdemeanor, and upon conviction thereof, punished by a fine of not less than twenty-five (25) nor more than one hundred (100) dollars, and costs of prosecution, or by imprisonment in the county jail for not less than ten (10) nor more than ninety (90) days for each and every offense.—G. L. 1905, Chap. 344, § 65.

§ 1570. **Harmless Birds.**—Any person who takes, catches, kills, ships or causes to be shipped to any person within or without this state, purchases, offers, or exposes for sale, sells, has in possession, has in possession with intent to sell, any harmless bird, either living or dead, or any part thereof, in violation of the terms of sec. thirty-nine (§ 1526) of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof punished by a fine of not less than ten (10) nor more than twenty-five (25) dollars and costs of prosecution, or by imprisonment in the county jail for not less than thirty (30) days, for each and every bird or any part thereof so caught, taken, killed, shipped or caused to be shipped to any person, either within or without this state, purchased or sold to any one, had in possession, had in possession with intent to sell, offered or exposed for sale, or had in possession or under his control. This section shall not be construed to apply to the keeping or selling of parrots or song birds as domestic pets.—G. L. 1905, Chap. 344, § 66.

§ 1571. **General penalty.**—Any person who violates any provision of this chapter for which a penalty has not been heretofore specifically provided, shall be guilty of a misdemeanor, and be punished by a fine of not less than ten (10) nor more than fifty (50) dollars and costs of prosecution, or by imprisonment in the county jail for not less than thirty (30) nor more than sixty (60) days.—G. L. 1905, Chap. 344, § 67.

All acts and parts of acts inconsistent with the provisions of this chapter are hereby repealed.—G. L. 1905, Chap. 344, § 68.

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PART THIRD

FORMS AND INSTRUCTIONS

FOR JUSTICES OF THE PEACE AND CONSTABLES IN
THEIR VARIOUS DUTIES UNDER THE
STATUTES.

TITLE I.—FORMS FOR QUALIFICATION.

1.—Official Oath of Constable.

State of Minnesota, }
County of } ss.

I, H. J., do solemnly swear that I will support the constitution of the United States, and of the state of Minnesota, and faithfully discharge the duties of the office of constable, of the...of...., in the county of, and state of Minnesota, to the best of my judgment and ability. So help me God.

H. J.

Subscribed and sworn to before me this....day of...., A. D. 19...
J. P., Justice of the Peace.

2.—Official Oath of Justice.

State of Minnesota, }
County of } ss.

I, J. P., do solemnly swear that I will support the constitution of the United States, and of the state of Minnesota, and faithfully and impartially discharge the duties of the office of justice of the peace of the...of....in the county of....and state of Minnesota, to the best of my judgment and ability. So help me God.

Subscribed and sworn to before me this....day of...., A. D. 19...
J. P., Justice of the Peace.

3.—Official Bond of Justice or Constable.

Know all men by these presents, that we, J. P. as principal, and B. S. and J. E. as sureties, are held and firmly bound unto the (Town or village, as case may be) of...in the county of...and state of Minnesota, in the sum of....dollars, lawful money of the United States, to be paid unto the said (town or village) of...., or its assigns: for which payment well and truly to be made, we jointly and severally bind ourselves, and each of our heirs, executors and administrators, firmly by these presents.

Sealed with our seals and dated this....day of...., 19...

The condition of the above obligation is such, that whereas, the above bounden J. P. was, on the....day of...., 19..., duly elected (or appointed) to the office of justice of the peace (or constable) in and for the said (town or village) of.... in said county, for the term of (two) years, and is about to enter upon the duties of said office.

Now, therefore, if the said J. P. shall, will and does faithfully discharge all his (official) duties as such justice of the peace (or constable)

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in and for said (town or village) of...., then this obligation to be void, otherwise to remain in full force and effect.

In testimony whereof, we have hereunto set our hands and seals thisday of...., A. D. 19..

Signed, sealed and delivered in presence of	}	J. P.	[Seal.]
G. J.		B. S.	[Seal.]
J. B.		J. E.	[Seal.]

4.—Acknowledgment of Bond.

State of Minnesota, } ss.
County of }

On this....day of...., 19.., before me personally appeared J. P., B. S., and J. E., to me known to be the persons described in, and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed. J. P., Justice of the Peace.

5.—Justification of Sureties to Bond.

State of Minnesota, } ss.
County of }

B. S. and J. E., being duly sworn, say, each for himself, that he is one of the sureties within named; that he is a resident and freeholder of the state of Minnesota, and that he is worth the sum of (five hundred) dollars above his debts and liabilities, and exclusive of his property exempt from execution.

B. S.
J. E.

Subscribed and sworn to before me this....day of...., 19..

J. P., Justice of the Peace.

6.—Approval of Bond.

(After folding the instrument, the chairman of supervisors must indorse on its back the following words): "I hereby approve the within bond and sureties thereon. Dated...., 19.."

(Signed officially by the chairman of supervisors.)

7.—Filing of Bond and Oath.

(After folding each of the instruments, the town clerk must endorse on their backs the following words): "Filed this....day of...., 19.., in the office of the town clerk of the town of...."

T. A. L., Town Clerk.

TITLE II.—FORMS FOR JUSTICES' COURTS—CIVIL JURISDICTION.

8.—Title of Cause.

State of Minnesota, } ss.
County of }

In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,

Note to forms 3 and 5.—The amount of the bond of a constable is to be fixed by the chairman of the town board (Sec. 11). That of village constable is to run to the village and be approved by the village council.

The bond of Town Justices is in a sum not less than \$500 nor more than \$1,000, shall run to the Town and be approved by the chairman of the Town Board (Sec. 10). That of village justices shall run to the village and be approved by the council.

Note to form 6.—If a bond of a village justice or constable, it must be approved by the council.

Note to form 7.—If it is a justice's bond it must be filed with the clerk of the District Court of the county (Sec. 10).

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9.—Security for Costs.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,

For value received, I hereby promise and agree to pay all costs that shall be allowed and taxed for or against the plaintiff in the above entitled action.

Dated this....day of....., A. D., 19..

R. R.

B. S.

10.—Form of Summons.

State of Minnesota, } ss.
County of }

The state of Minnesota to the sheriff or any constable of said county:

You are hereby commanded to smmon R. R., the defendant herein, if he shall be found in your county, to be and appear before the undersigned, one of the justices of the peace in and for said county, on the... day of..., 19.., at... o'clock, in the... noon of said day, at my office in the... of..., in said county, to answer the complaint of W. M., plaintiff, in a civil action, wherein the plaintiff claims the sum of... dollars, with interest thereon from the... day of..., 19.., at the rate of... per cent per annum; and have you then and there this writ.

Given under my hand and dated this....day of...., A. D. 19..

J. P., Justice of the Peace.

11.—Constable's Return on Summons.

State of Minnesota, } ss.
County of }

I hereby certify and return, that on the...day of..., 19.., in said county, I served the within summons upon the within named defendant personally, by reading the same to said defendant and delivering a copy to him.

H. J., Constable.

Fees—Mileage, 8 miles.....	.80
Service	.15
Copy	.15

Total\$1.10

12.—Service—Defendant Not Found.

State of Minnesota, } ss.
County of }

I hereby certify and return, that on the...day of..., 19.., in said county, I served the within summons upon the within named defendant, by leaving a copy thereof at his last usual place of abode, with one... a person of suitable age and discretion, then residing therein, defendant not being found. (Fees, see form 11.) H. J., Constable.

H. J., Constable.

13.—Service on Railroad Company.

State of Minnesota, } ss.
County of }

I hereby certify and return, that on the...day of..., 19.., in said county, I served the within summons upon the within named defendant,

Note to form 9.—This form may be entered in the docket and be signed by the party there. If made as a separate paper to be filed the justice should "indorse his approval," and "file" it. Thus, he should fold it and write on its back: "I hereby approve the within security for costs. J. P.", and then indorse his filing, thus: "Filed this day of , 190 . J. P."

Note to form 11.—See Sec. 101.

Note to form 11.—See Sec. 101.
Law for form 10, see § 89, 91. Law for form 11, see § 91, 92, 93, 290.

Law for form 10, see § 89. Law for form 12, see § 90.
Law for form 12, see § 91. Law for form 16, see § 102.

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by reading the same to... of said corporation, personally and delivering a copy thereof to him. (Fees, see form 11.) H. J., Constable.

14. Appointment of Special Constable.

State of Minnesota, } ss.
County of }

At the request, cost and risk of the plaintiff, I authorize J. C. to serve and return this summons. J. P., Justice of the Peace.

15.—Return of Special Constable.

State of Minnesota, } ss.
County of }

J. C., being duly sworn, says, that on the... day of..., 19..., in said county, he served the within summons upon the within named defendant personally, by reading the same to said defendant and delivering a copy thereof to him. (or, by leaving a copy thereof at his last usual place of abode, with one... a person of suitable age and discretion, then residing therein, defendant not being found.) J. C., Special Constable.

Subscribed and sworn to before me this... day of..., A. D. 19... J. P., Justice of the Peace.

16.—Summons By Publication—Affidavit.

State of Minnesota, } ss.
County of }

In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,

State of Minnesota, } ss.
County of }

W. M., being duly sworn, deposes and says, that he is the (agent or attorney for) plaintiff in the above entitled action, and that plaintiff has a just cause of action against the defendant herein, founded upon contract, viz.: (a promissory note, or as the case may be), and that the said defendant cannot be found in the state of Minnesota; that the defendant is not a resident of this state, but lives in the... and state of..., (if his residence is unknown, that fact should be stated), and that he has property (real or personal, as the case may be) within this state. (If the defendant is an absconding debtor, state: "that the defendant has departed from the state (1) with intent to defraud his creditors; or (2) to evade the service of a summons.") (Or, if the defendant be a concealed debtor, state: (3) "that the defendant keeps himself concealed within the state with intent to evade the service of summons.")

W. M.

Subscribed and sworn to before me this... day of..., A. D. 19... J. P., Justice of the Peace.

17.—Order for Publication and Mailing.

State of Minnesota, } ss.
County of }

In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,

Whereas, W. M., (agent or attorney for) the plaintiff in the above entitled action, has made his affidavit before me, stating that the plaintiff has a just cause of action against the defendant herein, founded upon contract, and that the said defendant cannot be found in the state of Minnesota; and it further appearing to me that said defendant is not a resident of the state of Minnesota (but resides at..., in the state of...), and has property within this state, and that this court has

Law for form 14 see § 104.

FORMS AND INSTRUCTIONS

jurisdiction of the action; (or, if either state of facts exists as given within parenthesis (1, 2 or 3) in the affidavit (form 16) they are to be inserted instead.)

It is ordered, that service of the summons in this action be made upon the said defendant, requiring him to be and appear before the undersigned, one of the justices of the peace in and for said county, on the....day of...., 19.., at....o'clock,m., at my office, in the.... of...., in said county, to answer to the complaint of W. M., plaintiff, in a civil action, by publication of said summons in the...., a weekly newspaper published in said....county, once in each week for three successive weeks. (If defendant's residence is known, add:) also, that a copy of the summons and complaint herein be forthwith deposited in the post-office, postage prepaid, and directed to the defendant at...., in the state of.....

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

18.—Summons for Publication.

State of Minnesota, } ss.
County of }

The state of Minnesota to R. R., defendant:

You are hereby summoned to be and appear before the undersigned, one of the justices of peace in and for said county, on the....day of...., 19.., at....o'clockm., at my office, in the....of...., in said county, to answer to the complaint of W. M., plaintiff, in a civil action, wherein the plaintiff claims the sum of....dollars with interest thereon from the....day of...., 19.., at the rate of....per cent per annum. Should you fail to appear at the time and place aforesaid, judgment will be rendered against you, upon the evidence adduced by said W. M., for such sum as he shall show himself entitled to.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

19.—Proof of Publication—Printer's Affidavit.

State of Minnesota, } ss.
County of }

...., being first duly sworn, deposes and says that he knows of his own knowledge, that the printed (notice of mortgage foreclosure sale) hereto attached, was cut from the columns of the....newspaper, known as....; that said notice was printed and published in said newspaper once in each week for six successive weeks; that said notice was first printed and published in said newspaper on....the....day of...., 19.., and was thereafter printed and published in said newspaper on each and every succeeding....until and including...., the....day of...., 19.. That during the time aforesaid, said newspaper was regularly printed and published on....of each week at...., Minnesota. Affiant further says that he now is, and during all the time of publication of said notice has been....the publisher and printer of said newspaper. Affiant further says that he knows of his own knowledge that all of the following conditions have existed for at least one year immediately prior to the first publication of said notice, and during the full period of said publication, to-wit: First, said newspaper has been printed in the place from which it purports to be issued, to-wit, the....of...., in said county and state in the English language and in column and sheet form equivalent in space to at least four pages with five columns to the page, each seventeen and three-fourths inches long; Second, that it has been issued at least once each week (at least six days in each week) from a known office established in said place of publication and equipped with skilled workmen and the necessary material for preparing and printing the same (excepting newspaper press); Third, that it has contained and now contains general and local news, comment and miscellany, not wholly nor

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substantially duplicating any other publication and not entirely made up of patents, plate matter and advertisements or any or either of them; Fourth, that it has been circulated in and near its said place of publication to the extent of not less than 240 complete copies thereof regularly delivered to paying subscribers; that prior to the date of the first publication of said notice the publishers of said newspaper filed in the office of the County Auditor of said county of...., state of Minnesota, the affidavit required by Section 5516, Revised Laws 1905. A. B.

Subscribed and sworn to before me this....day of...., A. D. 19..
J. P., Justice of the Peace.

20.—Affidavit—Mailing Summons and Complaint.

State of Minnesota, }
County of } ss.

A. B., being first duly sworn, says, that at...., on theday of...., 19.., he did then and there deposit in the postoffice within and for said....true copies of the summons and complaint hereto attached, which copies were properly enveloped, sealed, postage paid thereon and directed to R. R., at...., state of.... A. B.

Subscribed and sworn to before me this....day of...., 19..
J. P., Justice of the Peace.

21.—Oath of Persons Signing Affidavits or Other Papers.

You do swear that the statements of this affidavit, by you subscribed, are true. So help you God.

22.—Affirmation of Persons Not Taking Oath.

You do affirm that the statements of this affidavit, by you subscribed, are true; and this you do under the penalties of perjury.

23.—Consent of Next Friend—Infant Plaintiff.

State of Minnesota, }
County of } ss. In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,

I hereby consent to be the next friend of W. M., an infant, in a suit against R. R., and hereby, for value received, promise and agree with the said R. R., to pay him such costs as he shall recover against the said W. M. in this suit.

Dated...., 19..

J. B.

24.—Appointment of Next Friend—Infant Plaintiff.

State of Minnesota, }
County of } ss. In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,

Upon the request of the plaintiff in this action, and on filing the written consent of J. B., I do hereby appoint the said J. B., the next friend of the said plaintiff, to prosecute this suit. Dated...., 19..

J. P., Justice of the Peace.

Law for form 19, see § 98. Law for form 20, see § 98.

Note to forms 21 and 22.—The words of the oath are addressed by the officer to the person taking the oath or affirmation, who stands with uplifted right hand, and assents thereto.

Law for form 21, see § 169. Law for form 22, see § 170. Law for form 17, see § 102.

FORMS AND INSTRUCTIONS

25.—Consent of Guardian—Infant Defendant.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,
I hereby consent to be the guardian of R. R., an infant, the defendant
in the above entitled cause. Dated...., 19.. J. B.

26.—Appointment of Guardian—Infant Defendant.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,
Upon the request of R. R., defendant, (or W. M., plaintiff, as the case
may be), and on filing the written consent of J. B., I do hereby appoint
the said J. B. guardian for the said defendant, to defend this suit.
Dated...., 19.. J. P., Justice of the Peace.

27.—Affidavit for Change of Venue.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,

State of Minnesota, } ss.
County of }
R. R., being duly sworn, says, that he is the (attorney or agent of
the) defendant in the above entitled action; that from prejudice and bias
and other cause, he believes that J. P., the justice of the peace before
whom said action is pending will not decide impartially in the matter;
(or, is a material witness for the defendant in this action, without whose
testimony he cannot safely proceed to trial, or, is near of kin to the
plaintiff). That this affidavit is made for the purpose of having said
action transferred to some other justice of the peace, as provided by
law. W. M.

Subscribed and sworn to before me this....day of...., A. D. 19..
J. P., Justice of the Peace.

28.—Transcript—Change of Venue.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,

(After making the proper entries in the docket of all the proceedings
in the action, stating the facts of the affidavit for change of venue hav-
ing been made, and its grounds, and an order that the action be trans-
ferred to a certain justice (naming him and his residence) in the same
or an adjoining election district, and the time and place when and where
the parties are to appear before said justice, and that all his costs in
the said action have been paid; then make a full transcript therefrom
and add a certificate to the transcript, as follows):

Note to forms 21 and 22. The mode of administering an oath commonly
practiced in the place where it is taken shall be followed, including, in this state,
the ceremony of uplifting the hand.

Law for forms 19 and 20, see § 106. Law for form 21, see § 169. Law for
form 22, see § 170. Law for forms 23 and 24, see § 100. Law for form 25,
see § 101.

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State of Minnesota, }
County of } ss.

I hereby certify that I have compared the foregoing with the original entries in my docket, and that the same is a full and correct transcript thereof, and of all the proceedings had before me in said cause; that all the papers had before me therein are herewith returned and attached, and numbered from 1 to 7 inclusive; and that together with the foregoing transcript, they contain a full, correct and complete statement of all the proceedings had before me in said cause.

Given under my hand, this....day of...., A. D. 19..

To J. Q., Esq.,

J. P., Justice of the Peace.

Justice of the Peace of...., Minnesota.

29.—Defendant's Offer to Allow Judgment.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant,

The defendant offers to allow judgment to be taken against him by the plaintiff in this action for the sum of (twenty) dollars, or, the return of the personal property, with costs.

R. R., Defendant.

Dated...., 19..

30.—Verification to Oral Pleading.

(After the justice has entered the substance of the party's claim in his docket and read it to him, he must swear him as to its truth, thus):

You do swear that this pleading is true of your own knowledge, except as to such matters as are therein stated on information and belief, and that as to those matters you believe them to be true. So help you God.

31.—Verification to Account Delivered in Court.

You do swear that there is due you from the defendant (or plaintiff) in this action on the account (or instrument) delivered in court as your complaint (or answer), the sum of....dollars. So help you God.

32.—Complaint for Goods Sold.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant,

The complaint of the plaintiff shows to this court, that at....in the state of....between the....day of...., 19.., and the....day of...., 19.., inclusive, the plaintiff sold and delivered to the defendant at....special instance and request, goods, wares, and merchandise to the amount of, and of reasonable value of,....dollars.

That the said defendant agreed to pay therefor the said sum of....dollars. That the said sum has not been paid, nor any part thereof...., and there is now due and owing thereon from the defendant to the plaintiff the sum of....dollars, with interest thereon at the rate of six per cent per annum, from the....day of...., 19..

Wherefore, the plaintiff demands judgment against the defendant for the sum of....dollars, with interest thereon at the rate of six per cent per annum from the....day of...., 19.., together with the costs and disbursements of this action. (Verification, see forms 34 or 35.)

Dated...., 19..

W. M., plaintiff.

Law for form 23, see §110. Law for form 24, see § 110. Law for form 25, see § 111. Law for form 26, see § 111. Law for form 27, see § 112. Law for form 28, see §§ 112, 114. Law for form 29, see § 118. Law for form 30, see § 134. Law for form 31, see § 133.

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33.—Complaint, Promissory Note.

The complaint of the plaintiff shows to this court, that at...in the state of...on the...day of..., 19.., the defendant made and delivered to the plaintiff...promissory note in writing, dated on that day, and thereby promised to pay to said plaintiff, or order, on the...day of..., 19.., the sum of...dollars, for value received, with interest thereon from the date thereof, until paid, at the rate of...per cent per annum. That the plaintiff..., now the owner and holder of said note; that the same has not been paid, nor any part thereof....and the defendant.... now justly indebted to said plaintiff thereon in the sum of...dollars, which is now due, with interest thereon.

Wherefore, the plaintiff demand judgment against the defendant for the sum of...dollars, with interest thereon at the rate of...per cent per annum from the...day of..., 19.., together with the costs and disbursements of this action. Dated..., 19.. W. M., plaintiff.

(Verification, see forms 34 or 35.)

34.—Verification to Pleading by Party.

State of Minnesota, }
County of } ss.

W. M., being duly sworn, says, that he is the (plaintiff or defendant) in this action, that he has read the within pleading and knows the contents thereof, that the same is true of his own knowledge, except as to such matters as are therein stated on information and belief, and that as to those matters he believes them to be true. W. M.

Subscribed and sworn to before me this...day of..., 19..

J. P., Justice of the Peace.

35.—Verification by Attorney.

State of Minnesota, }
County of } ss.

W. S., being duly sworn, says, that he is the (attorney or agent) of the (plaintiff or defendant) in this action, that he knows the contents of the within pleading, and that the same is true to the best of deponent's knowledge and belief, and that he believes it to be true; that the reason this verification is not made by (plaintiff or defendant) is, that he is absent from court.

Subscribed and sworn to before me this...day of..., 19..

J. P., Justice of the Peace.

36.—Answer, Counter-Claim.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant,

Now comes the defendant and for his answer to the complaint of the plaintiff in the above entitled action, denies each and every allegation, matter and thing in said complaint contained, except as herein-after expressly admitted or qualified:

Defendant admits the making and delivering of the promissory note therein described.

Defendant further answering alleges, that the note described in the complaint herein was paid and satisfied in full long before the commencement of this action, and that there is no sum whatever due from this defendant to plaintiff thereon.

Further answering and for a counterclaim herein the defendant alleges: That at...in the State of Minnesota, between the day of.... 19.., and the...day of..., 19.., the defendant performed work, labor,

Law for form 34, see § 134. Law for form 35, see § 134. Law for form 36, see §§ 130, 151. Law for form 38, see §§ 139, 140.

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and services for the plaintiff at his special instance and request for a period of twenty-six days. That said work, labor, and services were well and reasonably worth the sum of (\$26), and that the said plaintiff agreed to pay the sum therefor.

That the said sum has not been paid, nor any part thereof, although payment thereof was demanded more than thirty days before the commencement of this action.

Wherefore, defendant demands judgment against the plaintiff that he take nothing by this action, and that the defendant have judgment against the plaintiff for the sum of twenty-six dollars, with interest thereon at the rate of six per cent per annum, from the....day of....19.., together with costs allowed by statute, and his costs and disbursements herein. Dated...., 19..

R. R., Defendant.

(Verification, see forms 34 or 35.)

37.—Reply.

State of Minnesota, }
County of } ss.

In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,

The reply of the plaintiff to the facts set forth in the answer of the defendant, denies each and every allegation (of new matter) therein contained.

W. M., plaintiff.

(Verification, see forms 34 or 35.)

38.—Adjournment—Affidavit Showing Cause.

State of Minnesota, }
County of } ss.

In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,

R. R., being duly sworn, says, that he is the defendant in this action; that J. S., who resides in the.... of...., in said county, is a necessary and material witness for this defendant, without whose testimony he cannot safely proceed to the trial of this action; that the said J. S., if examined on the trial, will testify that he was present at the time the horse mentioned in the answer was purchased, and heard the plaintiff say to the defendant, "the horse is sound, and I warrant him so," that he heard this defendant reply, "Well, I shall rely entirely upon your warranty," and that thereupon defendant gave his note for the balance of the purchase money of the horse.

That, on the....day of...., 19.., he procured a subpoena for the said J. S., and went with the same to his residence to serve the same, when he there learned for the first time that said J. S. had unexpectedly left home the day before and had gone to...., in the State of...., to be absent (three) weeks. That he knows of no other person by whom he can prove these facts; and that he expects to be able to procure the attendance of said J. S. as a witness on the trial, if this cause is adjourned for thirty days.

R. R.

Subscribed and sworn to before me this....day of...., 19..

J. P., Justice of the Peace.

39.—Certificate of Title Involved.

(After making the entry in the docket of the fact of title to real estate being involved by the evidence upon trial, which title is disputed by the other party, and full entries of all previous proceedings had in the action, then make a full transcript therefrom, and add the following certificate thereto, attaching together the process and all the papers in the case):

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State of Minnesota, }
County of } ss.

I, J. P., the justice of the peace before whom the above entitled action was pending, do hereby certify, that upon the trial of said action before me, it appearing from the evidence on the part of the defendant (or plaintiff) that the title to real estate was necessarily involved, which title was disputed by the other party, I immediately made an entry thereof in my docket and ceased all further proceedings therein to certify and return said cause to the district court of said county. And I further certify, that I have compared the foregoing transcript with the original entries made in my docket, and that the same is a correct transcript therefrom, and that attached thereto are the process and all the papers relating to the cause, which are numbered from (1) to (6) inclusive. Given under my hand this....day of...., A. D. 19...

J. P., Justice of the Peace.

To the district court of....county.

40.—Subpoena—Statute Form.

State of Minnesota, }
County of } ss.

The State of Minnesota
to

J. K., J. L., and G. G.

You are hereby required to appear before the undersigned, one of the justices of the peace in and for the said county, at my office in the.... of...., on the....day of...., 19..., at....o'clock in the....noon of said day, to give evidence in a certain cause then and there to be tried between W. M., plaintiff, and R. R., defendant, on the part of the plaintiff (or defendant). Given under my hand this....day of...., A. D. 19...

J. P., Justice of the Peace.

(Officer's return of service and fees, see form 42.)

41.—Subpoena Duces Tecum.

State of Minnesota, }
County of } ss.

The State of Minnesota
to

J. K., J. L., and G. G.

You are hereby required to appear before the undersigned, one of the justices of the peace in and for said county, at my office in the.... of...., on the....day of...., 19..., at....o'clock in the....noon of said day, to give evidence in a certain cause then and there to be tried between W. M., plaintiff, and R. R., defendant, on the part of the plaintiff (or defendant). And you, the said J. K., are further required to bring with you, and then and there produce in evidence, a certain (agreement in writing, or, as the case may be); and all other papers which you have in your possession touching the matters in dispute. Given under my hand this....day of...., A. D. 19...

J. P., Justice of the Peace.

42.—Constable's Return on Subpoena.

State of Minnesota, }
County of } ss.

I hereby certify and return, that on the....day of...., 19..., I served the within subpoena upon the within named witnesses, personally, by exhibiting and reading the same to....and paid....in advance \$....fees for one day's attendance, and for traveling to and returning from the

Law for form 38, see § 141. Law for form 40, see §§ 157, 438. Law for form 41, see § 157.

(Officer's return of service and fees, see form 42.)

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place where he was required to attend; also, that...necessarily traveled
miles in the service of said subpoena. Dated this....day of...., 19..
 Fees—Mileage, 6 miles.....\$.60
 Service45

Total\$1.05

J. M., Constable.

43.—Return of Subpoena—By Other Than an Officer.

State of Minnesota, } ss.
 County of }

J. D., being duly sworn, says, that on the day of, 19.., he personally served the within subpoena by exhibiting and reading the same to J. K. (or delivering a copy, etc.), and paid (or tendered) him in advance (\$1.12), his fees for one day's attendance and for traveling to and returning from the place where he was required to attend; also, that he necessarily traveled (eight) miles in the service of said subpoena.

J. D.

Fees—(as in form 42.)

Subscribed and sworn to before me this day of, 19...

J. P., Justice of the Peace.

44.—Affidavit for Attachment of Witness.

State of Minnesota, } ss.
 County of }

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,
 against

R. R., defendant,

R. R., being duly sworn, says, that he is the (defendant or plaintiff) in the above entitled action; that S. B. is a necessary witness on the part of said (defendant or plaintiff), and his testimony is material on the trial of said action; that on the....day of...., 19.., a subpoena for said S. B. was duly issued, and on the same day said subpoena was duly served on him, and his fees for one day's attendance and for traveling to and returning from the place where he was required to attend (paid or tendered), him in advance, as will more fully appear by the said subpoena and the return thereon, hereunto annexed; that said S. B., without just cause, has failed to obey said subpoena, and is not now in court. Wherefore, deponent prays that an attachment may issue to bring said S. B. before the court to testify as a witness in this action. R. R.

Subscribed and sworn to before me this....day of...., A. D. 19...

J. P., Justice of the Peace.

45.—Attachment Against Witness.

State of Minnesota, } ss.
 County of }

The state of Minnesota to the sheriff or any constable of said county:

You are hereby commanded to attach the body of S. B., if he shall be found in your county, and bring him forthwith before the undersigned, one of the justices of the peace in and for said county, at my office in the.... of...., in said county, to give evidence in a certain cause now pending before me, between W. M., plaintiff, and R. R., defendant, on the part of the defendant (or plaintiff); and also to answer all such matters as shall be objected against him, for that the said S. B. having been duly subpoenaed to attend at the trial of said action, he refused (or failed) without just cause to attend in conformity to said subpoena, and have you then and there this writ.

Given under my hand, this....day of...., A. D. 19...

J. P., Justice of the Peace.

Law for form 44, see § 163. Law for form 45, see § 163. Law for form 46, see § 290. Law for form 47, see § 174. Law for form 48, see § 175.

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46.—Constable's Return on Attachment of Witness.

State of Minnesota, }
County of } ss.

I hereby certify and return, that by virtue of the within writ, I have arrested the within named S. B., as I am within commanded, and have him now before the court. Dated...., 19...

Fees—Mileage, 2 miles.....\$.20
Service of writ......25

Total\$.45

J. M., Constable.

47.—Application to Justice to take Deposition.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant,

W. M. being duly sworn, says, that he is the plaintiff (or attorney for plaintiff) (or defendant) in the above entitled action; that said action is a civil cause, and that the same has been commenced and is pending in the above mentioned court; that the following person, namely, J. E., of the...., of...., and state of Minnesota, is a necessary and material witness, and his testimony is wanted on behalf of the plaintiff (or defendant) in such action, and that his deposition should be taken because he is so sick, infirm or aged as to make it probable that he will not be able to attend at the trial or hearing of said action, (or is about to go out of the state and not to return in time for the trial or hearing), (or lives more than thirty miles from the place of trial or hearing of said action); and the plaintiff (defendant) hereby makes application to this court that it may, by order, designate a time and place for the taking the deposition of said witness, and issue a notice to the adverse party to appear before said court (or before J. P., a justice of the peace residing at...., in the county of....and state of Minnesota), at the time and place so appointed for taking the deposition, and put such interrogatories as he may see fit.

W. M.

Subscribed and sworn to before me this....day of....A. D. 19..

J. P., Justice of the Peace.

48.—Order by Justice to take Deposition.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant.

It appearing by the affidavit of W. M., plaintiff, that the above entitled action is a civil action, and that the same has been commenced and is pending in the above mentioned Court, and that the following person...., namely J. E., of the city of (Laughing Water), in said state, is a necessary and material witness....on behalf of the plaintiff in such action, and that the testimony of J. E., such witness....is wanted in such action on behalf of said plaintiff and that his deposition should be taken because (that the said witness lives more than thirty miles from the place of trial or hearing) or (is about to go out of the state, not intending to return in time for the trial or hearing) or (is so sick, infirm or aged as to make it probable that he will not be able to attend at the trial or hearing).

Now, therefore, on mention of X. Y., attorney for said plaintiff, it is ordered that the deposition of said witness be taken on the....day of....

Note to form 47.—It will not do to give as a cause "that the witness is so sick, infirm or aged," etc. It should be one of these, or two or more of them, using the word "and," not or.

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19.., at....o'clock....M., at...., in the....of...., county of...., state of Minnesota, and that a copy of this order be served on the defendant R. R. on or before the....day of....19..

Dated at, etc.

J. P., Justice of the Peace.

To W. M., plaintiff (or defendant).

49.—Justice's Certificate of Transcript.

State of Minnesota, }
County of } ss.

I, the undersigned, a justice of the peace in and for the county and state aforesaid, do hereby certify that I have compared the foregoing copy of notice with the original thereof, issued by me this day and now in my possession, and that such copy is a true and correct transcript of such original, and the whole thereof.

In witness whereof, I have hereunto set my hand, this....day of...., A. D. 19.. J. P., Justice of the Peace.

50.—Proof of Service.

State of Minnesota, }
County of } ss.

A. B., being duly sworn, says, that on the....day of...., 19.., at...., in the county of...., he served the within notice upon the within named R. R., by delivering an attested copy thereof to him. A. B.

Subscribed and sworn to before me this....day of....19..

J. P., Justice of the Peace.

51.—Waiver of Service of Notice.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,

against

R. R., defendant.

I hereby waive the service of notice of taking the deposition of W. M., in the above entitled action. (Dated and signed by the adverse party or his attorney.)

52.—Certificate of Justice to Deposition.

State of Minnesota, }
County of } ss.

Be it known that I took the annexed deposition of J. E., pursuant to the annexed notice, (order or stipulation); that I was then and there a Justice of the Peace in and for said county and state; that I exercised the power of that office in taking such deposition; that by virtue thereof, I was then and there authorized to administer an oath; that each witness, before testifying, was duly sworn to testify to the whole truth and nothing but the truth relative to the cause specified in the annexed notice (order or stipulation); that the testimony of each witness was carefully read over to him by me before he signed the same; that the examination was conducted on behalf of the plaintiff by (X. Y.); that the examination was conducted on behalf of the defendant by (J. H.). And that the reason for taking the said deposition was; that the witness lives more than thirty miles from the place of trial or hearing; is about to go out of the state, not intending to return in time for the trial or hearing; is so sick....infirm....aged....as to make it probable that he will not be able to attend at the trial or hearing.

Witness my hand this day of, A. D. 19...

Law for form 49, see §§ 208, 224. Law for form 50, see § 176. Law for form 53, see §§ 174 to 194, inclusive.

Note to form 50.—To be indorsed on the original notice. Proof of service may be admitted by the person subscribing to the following statement: "Due service," of the within notice is hereby admitted, this day of , 19 , at (Signed.)

Note to form 52, see note to form 47.

FORMS AND INSTRUCTIONS

53.—Directions for Taking Deposition within the State Upon Notice, Order or Stipulation.

To.....Esq.,

Sir: You have been selected to take the deposition of (J. E.) in pursuance of the notice (order or stipulation) herewith inclosed. In taking such deposition you will please observe the following directions:

First—The deposition must be taken at the place specified in the notice, order or stipulation and the examination be commenced at the time or within one hour thereafter.

Second—Before testifying each witness must be sworn by you to testify the whole truth and nothing but the truth relative to the cause specified in the notice or order.

Third—The testimony of the witness must be reduced to writing by you or by some disinterested person in your presence, and under your direction. The proceeding may be adjourned from day to day until the examinations are closed.

Fourth—Prefix such testimony with the title of the cause as in the notice or order. Either party may appear in person, or by an agent or attorney, and take part in the examination.

Fifth—If the depositions are taken upon interrogatories, do not copy the interrogatories or cross-interrogatories, but before each answer put the following: "To the first interrogatory the witness deposes and says"; "To the second interrogatory the witness," etc.

Sixth—Prefix the testimony of each witness with the following: Deposition of J. S., of...in the County of...and the state of...taken before (give name and official title) at...on the...day of...19.., at...o'clock...M.

Seventh—The testimony of each witness when completed must be carefully read over by you to him, and he be permitted to add to or to qualify the same, if he desires.

Eighth—The witness must sign his name, or make his mark, at the end of the deposition, and upon each piece of paper on which any portion of his testimony is written.

Ninth—Fill out and sign officially the foregoing certificate. Then form the papers into one package, fastened together securely in the following order: Copy of the notice (order or stipulation), depositions, exhibits (if any) and certificate. Add a minute of the fees of officer and witnesses, and by whom paid.

Tenth—Inclose and seal the package in an envelope. Across the end of the envelope endorse: "Deposition of J. E., taken to be used on the trial of an action now pending in...Court, in and for...county, Minnesota, wherein W. M. is plaintiff and R. R. is defendant." Then send it by mail, prepaid, directed to the Justice of the Peace, the clerk of the court in which, or the arbitrators, before whom the action is pending, at... P. O.,...County, Minnesota.

J. P., Justice of the Peace.

Dated at...Minnesota,...19..

54.—Notice for Taking Deposition without the State.

State of Minnesota,	}	ss.	In Justice Court,
County of			Before J. P., Justice of the Peace.
			W. M., plaintiff,
			against
			R. R., defendant,

To R. R., the above named defendant:

Please Take Notice, That the deposition of J. E., a witness in the said action, on the part of the plaintiff, residing at (Chicago), in the State of (Illinois), to be used on the trial of the above entitled action, will be taken by and before C. M., Esq., a notary public there residing and duly authorized by law to administer oaths therein, at his office, at

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(give street number) in the said (city) of (Chicago), on the.... day of....19.., at 10 o'clock in the forenoon of that day, and said examination may be adjourned from day to day until the same is closed. That the reason for taking the said deposition is, that the witness is without this state, and within a state or territory of the United States....

Dated at...., this....day of....19..

G. M., Attorney for Plaintiff.

55.—Interrogatories—to be Annexed to Stipulation.

State of Minnesota,	} ss.	In Justice Court,
County of		Before J. P., Justice of the Peace.
		W. M., plaintiff,
		against
		R. R., defendant,

Interrogatories to be propounded to J. S., a witness to be produced, sworn and examined on the part of W. M., plaintiff, in the above entitled cause, before T. W. G., of...., state of...., under and by virtue of a commission (notice or stipulation) hereto annexed:

Interrogatory First—State your name, age and place of residence.

Interrogatory Second—Are you acquainted with the parties, plaintiff and defendant in this action, or either of them? If so, which of them, and where and how long have you known them? (And so on, through the entire list. If any papers are to be identified or exhibited, they should be attached.)

Cross-Interrogatories.

Cross-interrogatories to be propounded to the said J. S., by way of cross-examination. (Insert interrogatories according to circumstances.)

The foregoing (or within) interrogatories are hereby approved.

Dated at....,19..

J. P., Justice of the Peace.

56.—Caption to Deposition.

Deposition of W. C., a witness produced, sworn and examined on oath before me, (give name and official title) in and for....county, state of...., on the....day of....19.., at the....of....and state of...., pursuant to the annexed notice (or stipulation), at the time and place therein specified, to be read in evidence on behalf of the plaintiff (or defendant) in an action pending in (state what court or before whom), in which W. M. is plaintiff and R. R. is defendant, L. M. (or no one, as the case may be) being present on behalf of the plaintiff, and O. P. (or no one, as the case may be) on behalf of the defendant. The said W. C., being by me first duly sworn, deposes and says: To the first interrogatory the deponent says, etc. To the second interrogatory the deponent says, etc., or the witness may proceed in narrative form, or in answer to oral questions put by the parties or their attorneys. If in answer to oral questions it might be as follows:

First Question—What is your name, age, residence, and occupation?

First Answer—(Give it as nearly as may be in the witness' own words. Some answer should be given to every question, and if the wit-

Note to form 54.—Commission to take deposition is only issued by a court of record when the deposition of a witness residing in another state is wanted. This is under Revised Laws, 1905 (see § 193).

Note to form 55.—If the parties agree to the interrogatories without having them settled by the justice, their written consent must be indorsed thereon by them. If the justice settles and approves them he should endorse his approval on them as follows: "I hereby approve of the within (or annexed) interrogatories on the part of the (plaintiff) and the cross-interrogatories on the part of the (defendant)." The justice should then inclose the commission, with interrogatories annexed, in an envelope, and send it by mail to the commissioner named therein. The commissioner is authorized to cause the witness to come before him by subpoena. The directions given in form 53 may be followed with a slight modification for depositions however taken, whether under notice, commission or stipulation.

Law for forms 55, 56, see §§ 174 to 194, inclusive.

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ness does not know the matter asked about, write his answer as given, as for instance, "I do not know.")

Second Question—(Write it here.)

Second Answer—(Write it here, and so proceed till the direct examination be finished, noting all objections and adjournments at the time they occur. Any adjournment may be noted substantially as follows: "The taking of said deposition not being finished at . . . o'clock of said . . . day . . . of . . . 19 . . ., the further taking thereof is adjourned till . . . o'clock . . . M. of the . . . day of . . . 19 . . .," or "Adjourned by agreement of parties till . . . o'clock of the . . . day . . . of . . . 19 . . ." Note the resuming after adjournment as follows: ". . . 19 . . ., at . . . o'clock . . . M. the taking of said W. C.'s deposition was resumed." Then proceed to write the questions and answers as before.)

Cross-examination of W. C. by (state whom and in whose behalf):

First Cross-Question—(Write it here.)

Answer to First Cross-Question—(Write it here, and so proceed to the close of the cross-examination.)

Re-direct examination of W. C. by

First Re-direct Question—(Write it here.)

Answer Thereto—(Give it, and so proceed, noting objections, if necessary, to the end of the witness' testimony; and when it is done, read it to him or let him read it, and ask him if there be anything in his answers which he desires to change. If there be, change it as he directs. Then get him to sign his name thereto at its close, or make his mark. Then add the certificate and evidence and transmit as per form 53.)

57.—Stipulation for Taking Deposition.

State of Minnesota, } County of } ss.	In Justice Court, Before J. P., Justice of the Peace. W. M., plaintiff, against R. R., defendant,
---	---

It is hereby stipulated by and between the parties, Plaintiff and Defendant, in the above entitled action that the deposition and testimony of J. E., residing at Chicago, in the State of Illinois, witness on behalf of said plaintiff, shall be taken by and before any notary public residing at Chicago, Illinois, whose official character as such notary public shall be sufficiently proven by his official seal and an impression thereof affixed to or stamped upon his return thereto; and such notary public is hereby agreed upon and appointed to take the deposition of said witness J. E. And the interrogatories and cross-interrogatories (if any) hereto attached shall go out with this stipulation, to be propounded to said witness after said witness has been produced and sworn to testify the whole truth, and nothing but the truth, relative to said cause; and said parties hereby waive any and all objections to said notary public, and waive the issuing of any commission from said Court herein, and hereby agree that said deposition of said witness J. E. shall have the same force and effect as if taken upon commission duly issued herein; and said parties waive any and all notices and pre-requisite forms required by law or the rules of Court for the taking of depositions; but said parties reserve to themselves the right to object to the competency and admissibility of said interrogatories and cross-interrogatories, and to any of the same, and to any of the answers thereto respectively, in like manner and upon the

Note to form 57.—The foregoing is a very safe and convenient form for procuring the testimony of witnesses by deposition. The stipulation waives all preliminary objections, and saves much time and labor otherwise necessarily taken to make the formal application and serve the notices and make proper proofs thereof, as required by statute, before depositions can be taken. The manner of taking and certifying to and returning depositions taken under a stipulation would be governed by the rules and forms heretofore given for taking upon notice or under a commission.

Law for form 57, see §§ 174 to 194, inclusive.

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same grounds as if said witness were present and orally examined in open Court upon the trial of this cause which is at issue and said Court depending.

(Dated and signed by attorneys of both parties.)

Dated....19..

.....
Attorney for Plaintiff.

.....
Attorney for Defendant.

58.—Constable's Jury List.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant,

I hereby certify that the following is a list of names of (twenty-four) inhabitants of the county of...., qualified to serve as jurors in the district court of said county, made by me, as directed by said justice of the peace, from which to impanel a jury in the above entitled cause. Dated this....day of....19.. J. M., Constable.

John J. Cooke, Pltff. 1.	Def. 4.	Wm. W. Wertzel,
Allan K. Ware,		Daniel G. Pratt,
Jared S. Benson,		Horace S. Roberts, Pltff. 4.
Walter G. Brown,		J. W. Everstine,
George W. Jones,	Def. 5.	Aaron M. Ozmun,
Elias Bedall,		Ole T. Ruld,
Erick Peterson,		Lars Anderson,
Patrick Kelly, Pltff. 2.		Conrad Schacht,
Thomas O'Jones,	Def. 6.	O. P. Whitcomb,
Julius Graetz,		J. Q. Leonard,
John Shannon, Pltff. 3.		Zera Fairman, Pltff. 5.
Def. 3.		Russell Blakely, Pltff. 6.
David F. Lamb,		
Names struck off by plaintiff checked on left;		checked on right; by defendant,
checked on the left.		J. P., Justice of the Peace.

59.—Venire—Civil Action.

State of Minnesota, }
County of } ss.

The State of Minnesota to the sheriff or any constable of said county:

You are hereby commanded to summon (here insert the names in full), to be and appear before the undersigned, one of the justices of the peace in and for said county, on the....day of...., 19.., at....o'clock in thenoon of said day, at my office in the....of...., in said county to make a jury for the trial of a civil action between W. M., plaintiff, and R. R., defendant, and have you then and there this writ. Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

60.—Constable's Return on Venire.

State of Minnesota, }
County of } ss.

I hereby certify and return, that by virtue of the within writ, I have personally summoned as jurors, the several persons named therein, by reading the same to each of them, viz.: (give the list served, and if any are not served, add): and that the following named persons could not be found (giving their names).

Dated this....day of...., 19.. J. M., Constable.

Fees—Mileage, 20 miles	-	-	-	\$2.00
Summoning jury	-	-	-	1.00

Total	-	-	-	-	\$3.00
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Law for form 58, see § 246. Law for form 59, see §§ 247, 438. Law for form 60, see § 217.

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61.—Warrant for Defaulting Juror.

State of Minnesota, }
County of } ss.

The state of Minnesota to the sheriff or any constable of said county:

Whereas, on the...day of..., 19.., a venire was duly issued by the undersigned, one of the justices of the peace of said county, in the case of W. M. vs. R. R., then pending before me as such justice; and, whereas, one E. F. was duly named as juror therein, and said venire was duly served upon said E. F. by J. M., a constable of said county; and, whereas, the said E. F. failed to appear as such juror, or to render any reasonable excuse for his default, as appears from the return of said constable, and from my docket. Now, therefore, you are hereby commanded forthwith to apprehend the said E. F. and bring him before me to show cause why he should not be fined for contempt in not obeying said writ, and to be further dealt with according to law.

Given under my hand, this...day of..., A. D. 19..

J. P., Justice of the Peace.

62.—Constable's Return.

State of Minnesota, }
County of } ss.

I hereby certify and return, that by virtue of the within writ, I have arrested the within named E. F., as I am within commanded, and have him now before the court. Dated.....19..

(Fees, see form 143.)

J. M., Constable.

63.—Oath to Challenged Juror.

"You do swear that you will true answers make to such questions as shall be put to you, touching your qualifications as a juror, in the cause about to be tried between W. M., plaintiff, and R. R., defendant. So help you God."

64.—Oath to Witness—Challenged Juror.

"You do swear that you will true answers make to such questions as shall be put to you, touching the qualifications of L. F., as a competent juror in this cause. So help you God."

65.—Oath to Jurors—Civil Action.

"You each do swear that you will impartially try the issues in this case, and a true verdict give, according to the law and the evidence given to you in court; your own counsel, and that of your fellows, you will duly keep; you will say nothing to any person concerning the case, nor suffer any one to speak to you about it, and will keep your verdict secret until you deliver it in court. So help you God."

66.—Oath to Jurors—Criminal Cases.

"You each do swear that, without respect of person or favor of any man, you will and truly try, and true deliverance make, between the state of Minnesota and the defendant, according to law and the evidence given to you in court. So help you God."

67.—Oath to Witnesses.

"You do swear that the evidence you shall give relative to the cause now under consideration shall be the whole truth, and nothing but the truth. So help you God."

68.—Affirmation of Witness.

"You do affirm that the evidence you shall give relative to the cause now under consideration shall be the whole truth, and nothing but the truth; and this you do under the penalties of perjury."

Law for form 61, see § 432 subdivision 9, and § 434.

Note to form 67.—See form 57.

69.—Interpreter's Oath.

"You do swear that you will truly and impartially interpret to this witness, the oath about to be administered to him, and the testimony he shall give relative to the cause now under consideration. So help you God."

70.—Oath to Officer, Taking Charge of Jury.

"You do swear that you will keep this jury together, and, so far as may be, secluded, so long as they shall remain in your charge; will suffer no one to communicate with or overhear them while deliberating upon their verdict; and will not by word or sign disclose, except to the court alone, anything that may come to your knowledge concerning their action in this case until they are duly discharged. So help you God."

71.—Confession of Judgment.

State of Minnesota, }
County of } ss.

To J. P., a justice of peace of said county:

I do hereby confess judgment in favor of W. M. and against myself, for the sum of (thirty) dollars, which is justly (to become) due the said W. M. from me, and I hereby authorize you to enter judgment therefor against me.

This confession is for a debt now justly (to become) due from me to said W. M., arising upon the following facts: That at...., in the state of Minnesota, on the.... day of...., 19.., the said W. M. (sold and delivered to me) (one cow) for the sum of (thirty) dollars, which sum I agreed to pay therefor in (six months) thereafter; that no part thereof has ever been paid; and that the whole thereof is now due.

Dated this... day of...., 19...

R. R.

State of Minnesota, }
County of } ss.

R. R. appeared personally before me and being duly sworn, says, that the facts stated in the within confession are true.

R. R.

Subscribed and sworn to before me this.... day of...., 19..

J. P., Justice of the Peace.

72.—Bond Before Judgment—Defendant Not Personally Served.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,

against

R. R., defendant,

Know all men by these presents, that we, W. M., plaintiff in the above entitled action, as principal, and H. M. and G. L., as sureties, are held and firmly bound unto R. R., defendant in the above entitled action, in the sum of (double the amount of the judgment).... dollars, lawful money of the United States, to be paid to the said defendant, his heirs, executors, administrators or assigns, for which payment well and truly to be made, we jointly and severally bind ourselves and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated this.... day of...., 19..

The condition of this obligation is such, that whereas, the summons in the above entitled action was served by leaving a copy thereof at the last usual place of abode of the defendant (or by publication), and the plaintiff has applied for judgment thereon. Now, therefore, if the said defendant, within (six months) from the rendition of this judgment, shall appear and be admitted to defend this action, then if the plaintiff will abide the order of the court therein, and will refund all sums collected upon said judgment, and make restitution of all property received by

Note to form 71.—The defendant must appear before the justice in person. Law for form 71, see § 263. Law for form 72, see § 272.

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virtue thereof, if ordered by the court, and pay all costs and damages that may be adjudged against him, then this obligation shall be void, otherwise to remain in full force and effect.

In testimony whereof we have hereunto set our hands and seals this
.... day of...., A. D. 19..

(Acknowledgment, justification of sureties and approval, see forms 4, 5 and 6.)

73.—Notice of Re-Opening Judgment.

State of Minnesota, }
County of } ss. In Justice Court,
 Before J. P., Justice of the Peace.
W. M., plaintiff,
 against
R. R., defendant.

To W. M., the above named plaintiff (or agent or attorney of plaintiff):

Sir: Take notice, that R. R., the defendant in the above entitled action, will apply to J. P. (or, to Z. L., successor in office to J. P.), the justice of the peace before whom the judgment in said action was rendered, on the... day of..., 19.., at... o'clock.. m., at his office in the ... of ..., in said county, to have the said judgment re-opened.

Dated this.... day of...., 19... R. R., Defendant.

74.—Bond on Re-Opening Judgment.

State of Minnesota, }
County of } ss. In Justice Court,
 Before J. P., Justice of the Peace.
W. M., plaintiff,
 against
R. R., defendant.

Know all men by these presents, that we, R. R., defendant in the above entitled action, as principal, and H. M. and G. L., as sureties, are held and firmly bound unto W. M., plaintiff in the above entitled action, in the sum of (double the amount of the judgment) . . . dollars, lawful money of the United States, to be paid to the said plaintiff, his heirs, executors, administrators or assigns, for which payment well and truly to be made, we jointly and severally bind ourselves and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated this.... day of...., 19 .

The condition of this obligation is such, that whereas, the summons in the above entitled action was served by leaving a copy thereof at the last usual place of abode of the defendant (or by publication), and the defendant is desirous of re-opening the judgment rendered in the above entitled action. Now, therefore, if the said defendant, will abide the order of the court therein, and pay all costs and damages that may be adjudged against him, then this obligation shall be void, otherwise to remain in full force and effect.

R. R. (Seal)

R. R. (Seal)

H. M. (Seal)

G. L. (Seal)

In testimony whereof we have hereunto set our hands and seals this
day of...., A. D. 19..

(Justification of sureties and approval, see form 4, 5 and 6.)

75.—Notice of Application to Set-Off Judgment.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant.

To R. R.:

Sir: Take notice, that I shall apply to J. P., a justice of the peace, at his office in the town of...., in said county, on the.... day of....,

Law for form 73, see § 273. Law for form 74, see § 273. Law for form 75, see §§ 267, 153. Law for form 76, see § 270.

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19.., at o'clock .. m., to have a certain judgment recovered by me against you, before (give name of justice, residence, date and amount of judgment), set-off against the judgment recovered by you against me, before J. P., the justice above mentioned, on (give date and amount of judgment.)

Dated, 19..

W. M.

76.—Transcript of Judgment for Set-Off Before Another Justice.

State of Minnesota,	}	ss.	In Justice Court,
County of			Before J. P., Justice of the Peace.
			W. M., plaintiff,
			against
			R. R., defendant,

(Here insert a literal copy of the judgment of the justice with date and signature of the justice who entered same.)

Execution issued the....day of....19.., to collect damages \$...., and costs \$..... Total \$...., and delivered to Constable J. M. for service.

Execution returned by officer the.... day of, 19.., certifying that after diligent search and inquiry, he could find no personal property of the within named judgment debtor whereon to levy the same, and returned the execution wholly unsatisfied.

Increased costs on execution \$...., costs of transcript \$..... Total \$....

State of Minnesota,	}	ss.
County of		

I hereby certify that I have compared the foregoing with the original entry of judgment rendered before (here insert the name of the justice who signed the judgment) in the above entitled action, and of the proceedings had thereunder, and that the same is a correct transcript therefrom, and of the whole thereof, as appears from my docket; that said judgment is wholly unsatisfied (or that the sum of \$.... is due and unsatisfied on said judgment); that there is no appeal or existing execution thereon; and that this transcript was obtained for the purpose of being a set-off against a judgment rendered before J. P., justice of the peace, in an action wherein W. M. is plaintiff and R. R. is defendant, in favor of said (defendant or plaintiff) and against said (defendant or plaintiff) for the sum of \$:... damages and \$..... costs, and dated the day of...., 19..

Given under my hand this day of...., A. D. 19..

J. P., Justice of the Peace.

77.—Transcript of Judgment—Lien on Real Estate.

State of Minnesota,	}	ss.	In Justice Court,
County of			Before J. P., Justice of the Peace.
			W. M., plaintiff,
			against
			R. R., defendant,

(Here insert a literal copy of the judgment of the justice with date and signature of the justice who entered same.)

State of Minnesota,	}	ss.
County of		

I hereby certify that I have compared the foregoing, with the original entry of judgment rendered before (here insert the name of the justice who signed the judgment), in the above entitled action, and of the pro-

Note to form 77.—When such a transcript of a justice's judgment is filed and docketed in office of clerk of district court of the same county, it becomes a lien on all real estate owned by the judgment debtor at that date or thereafter acquired in said county. Other transcripts may then be taken from the said clerk's office and filed in other counties with like effect.

Law for form 77, see § 274. Law for form 78, see § 275. Law for form 80, see §§ 438, 310.

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ceedings had thereunder, and that the same is a correct transcript therefrom and of the whole thereof, as appears from my docket.

Given under my hand this.... day of...., A. D. 19..

J. P., Justice of the Peace.

78.—Transcript—To Enforce Execution in District Court.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant,

(Here insert a literal copy of the judgment of the justice with date and signature of the justice who entered same.)

Execution issued the....day of...., 19.., to collect damages \$...., and costs \$.... Total \$...., and delivered to Constable J. M. for service.

Execution returned by officer the....day of...., 19.., certifying that after diligent search and inquiry, he could find no personal property of the within named judgment debtor, whereon to levy the same, and returned the execution wholly unsatisfied.

Increased costs on execution..... \$....

Cost of transcript..... \$....

Total \$....

State of Minnesota, }
County of } ss.

I hereby certify that I have compared the foregoing with the original entry of judgment rendered before (here insert the name of the justice who signed the judgment) in the above entitled action, and of the proceedings had thereunder, and that the same is a correct transcript therefrom, and of the whole thereof, as appears from my docket.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

79.—Affidavit of Travel of Witnesses.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant,

State of Minnesota, }
County of } ss.

W. M., being duly sworn, says he is the....in this action, that the following persons were witnesses for the plaintiff (defendant) in said action, and that they necessarily traveled the number of miles set opposite their respective names in going from their places of residence to and returning from the place of trial, and necessarily attended the number of days set opposite their said names, viz.:

J. S., travel (eight miles, attendance (one) day.

T. B., travel (ten) miles, attendance (one) day.

Subscribed and sworn to before me this....day of...., A. D. 19..

J. P., Justice of the Peace.

80.—Execution—Statute Form.

State of Minnesota, }
County of } ss.

The state of Minnesota to the sheriff or any constable of said county:

Whereas, judgment against R. R. for the sum of (nineteen) dollars and (forty-three) cents, lawful money of the United States, and for (three) dollars and (seventy) cents, costs of suit, was recovered the.... day of...., 19.., before...., a justice of the peace of said county, at the suit of W. M.; these are therefore to command you to levy distress on the personal property of the said R. R. (excepting such as the law

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exempts), and make sale thereof according to law, in such case made and provided, to the amount of the said sum, together with twenty-five cents for this execution, and the same return to me within thirty days, to be rendered to the said W. M., for his said judgment and costs. Hereof fail not, under penalties of the law.

Given under my hand, this....day of...., A. D. 19..

J. P., Justice of the Peace.

(Officer's return, see forms 84, 85, 86, 87, 88.)

81.—Recognizance on Stay of Execution.

State of Minnesota,	}	ss.	In Justice Court,
County of	}		Before J. P., Justice of the Peace.
			W. M., plaintiff,
			against
			R. R., defendant.

We, R. R., defendant in the above entitled action, as principal, and A. R. and B. F. as sureties, acknowledge ourselves to owe and be indebted to W. M., plaintiff in the above entitled action, in the sum of (double the amount of the judgment) dollars, to be levied and collected of our several goods and chattels, if default be made in the condition following: Whereas, W. M., the said plaintiff, obtained judgment before J. P., a justice of the peace in and for said county, on the.... day of...., 19.., against R. R., the said defendant, for the sum of (twenty) dollars. Now, if said judgment, costs and interest shall be paid at the expiration of (three) months from the time it was rendered, this recognizance shall be void; but if default be made in such payment, execution may issue against said defendant and A. R. and B. F., sureties herein, for such amount as may be due on said judgment with interest, and costs accruing. Dated this....day of...., A. D. 19..

Taken and acknowledged before me, the date aforesaid.

J. P., Justice of the Peace.

(Acknowledgement, justification of sureties and approval, see forms 4, 5, 6.)

82.—Execution After Expiration of Stay.

State of Minnesota,	}	ss.
County of	}	

The state of Minnesota, to the sheriff or any constable of said county:

Whereas, judgment against R. R. for the sum of (seventeen) dollars and (fifty) cents, lawful money of the United States, and for (two) dollars and (fifty) cents, costs of suit, was recovered the....day of...., 19.., before J. P., a justice of the peace of said county, at the suit of W. M., and whereas, on the....day of...., 19.., the said R. R., together with A. R. and B. F., as bail for said judgment debtor, duly entered into a recognizance for a stay of execution on said judgment for the period of (three) months from the date of said judgment, according to the statute in such case made and provided, conditioned to pay said judgment with interest and costs; and whereas, more than (three) months have elapsed since the rendition of said judgment, and the amount thereof with interest and costs remain wholly unpaid; these are, therefore, to command you to levy distress on the personal property of the said R. R., A. R. and B. F. (excepting such as the law exempts), and make sale thereof, according to law, in such case made and provided, to the amount of the said sum, together with twenty-five cents for this execution, and the same return to me within thirty days, to be rendered to the said W. M. for his said judgment, interests and costs. Hereof fail not, under penalty of the law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

(Officer's return, see forms 84, 85, 86, 87, 88.)

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83.—Indorsement on Execution.

IN JUSTICE COURT.	
County of.....	W. M., Plaintiff, against R. R., Defendant.
EXECUTION.	
Collect damages.....\$19 43	
And costs.....3 70	
Total.....\$23 13	
Interest thereon at six per cent from...., 19..,	
and your fees.	
J. P., Justice of the Peace.	
Received the within exe- cution the....day of....,	
19....	J. M., Constable.
At the request of the Plaintiff the within execu- tion is renewed to collect the sum of \$.... now due thereon with interest.	
Dated...., 19..	
Justice of the Peace.	
Filed this....day of, 19..	
Justice of the Peace.	

84.—Return of Levy Indorsed on Execution.

State of Minnesota, }
County of } ss.

I hereby certify that by virtue of the within execution, on this.... day of...., 19.., I have levied on (describe the property, or, if the articles are numerous, annex an inventory) the personal property of the within named Judgment debtor (in the annexed inventory described).

J. M., Constable.

85.—Inventory Attached to Return.

State of Minnesota, }
County of } ss.

I hereby certify that the within is a true and correct inventory of the personal property of...., judgment debtor...., levied on by me this.... day of...., 19.., by virtue of the annexed writ of Execution: two cows; three yearling colts; one wheelbarrow; one sulky rake, etc., etc.

J. M., Constable.

86.—Certificate to Copy for Defendant.

State of Minnesota, }
County of } ss.

I hereby certify that the within and above is a true copy of an execution against the within named judgment debtor, and of my return of levy by virtue thereof.

Dated....19..

J. M., Constable.

87.—Return of Levy on Crop to be Filed with Clerk.

State of Minnesota, }
County of } ss.

I hereby certify, that by virtue of the within execution, on the....day of...., 19.., I levied upon all the right, title and interest of the within named judgment debtor, in and to the growing crop of (wheat) sown and planted in the spring of 19.., on the following described real estate, situate in said county and state, viz.: (describing it), and now hold the same subject to sale, as provided by law; I further certify and return, that on the....day of...., 19.., in said county, I served the within execution and inventory upon the within named judgment debtor personally, by reading the same to the said judgment debtor, and delivering a copy thereof to....; that on the....day of...., 19.., I filed with the clerk of the town in which the said property is situated, a certified copy of the within execution, and of my return of levy by virtue thereof.

Dated....19..

J. M., Constable.

(Add certificate of copy as follows):

Law for form 83, see § 312. Law for form 84, see § 316.

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State of Minnesota, }
County of } ss.

I hereby certify that the within and above is a true copy of an execution (writ of attachment) against R. R., the within named judgment debtor, and of my return of levy by virtue thereof. J. M., Constable.

Dated...., 19..

(To be filed with the town clerk, or city or village recorder.)

88.—Return of No Goods Found.

State of Minnesota, }
County of } ss.

I hereby certify that, after diligent search and inquiry, I can find no personal property of the within named judgment debtor subject to levy, and I return this execution wholly unsatisfied.

Dated....19..

J. M., Constable.

89.—Oath to Appraisers of Exempt Property.

"You do swear that you will justly and fairly appraise, at its cash value, the property of R. R., levied on by virtue of an execution against the said R. R. So help you God."

90.—Form of Constable's Sale Execution Sale.

State of Minnesota, }
County of } ss.

By virtue of an execution issued by J. P., justice of the peace of said county, against the personal property of R. R., in favor of W. M., I have levied upon, and taken the following described property, to-wit (describing it), which I shall expose for sale at public vendue to the highest bidder, on...., the....day of...., 19.., at....o'clock....M. (in front of the post-office), at...., in said county.

Dated...., 19..

J. M., Constable.

91.—Adjournment of Sale.

The above sale is hereby postponed to the....day of...., 19.., at.... o'clock in the....noon, at the place above mentioned.

Dated...., 19..

J. M., Constable.

92.—Constable's Report of Sale on Execution.

State of Minnesota, }
County of } ss.

I hereby certify and return, that by virtue of the within execution, on the....day of...., 19.., I levied on the personal property in the annexed inventory described, the property of the within named judgment debtor, and on the....day of....19.., I advertised the said property for sale by posting up in three public places in the....of...., the election district, wherein said property was to be sold, three notices describing said property, and giving notice of the time and place when and where the same would be exposed for sale; and that on the....day of....19.., at....o'clock....M., at (naming it)...., the time and place so appointed in said notice for said sale, I attended at said place and then and there exposed the said personal property for sale at public vendue to the highest bidder; and sold the said property to...., for \$....he being the highest bidder therefor; and that I have retained \$...., my fees and dis-

Note to form 91.—The postponement should be made by oral proclamation by the officer, at the time and place designated in the notice of sale, and in view of the property. The above notice of adjournment should be attached to or posted below the original notice of sale.

Law for form 85, see § 316. Law for form 86, see § 337. Law for form 87, see § 335. Law for form 89, see § 348. Law for form 90, see § 316. Law for form 91, see § 319.

Law for form 88, see § 313. Law for form 92, see §§ 316, 318. Law for form 93, see § 349. Law for form 94, see § 241.

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bursements from said amount, and have applied \$....in (full or part) payment of the attached execution, which is hereby returned (fully or partially) satisfied.

Dated....19..

J. M., Constable.

Fees—Mileage, 10 miles	- - - - -	\$1.00
Serving execution	- - - - -	.15
Serving inventory	- - - - -	.15
Copies	- - - - -	.45
Posting notices	- - - - -	.45
Commission at 5 per cent	- - - - -	2.50
Total	- - - - -	\$4.70

93.—Replevin Affidavit.

State of Minnesota, }
County of } ss.

W. M., being duly sworn, deposes and says, he is....the plaintiff herein, that (a certain horse of a dark bay color, with a white spot in his forehead and about eight years old), of his personal property, is at this time wrongfully detained from him by R. R., at...., in said county, that he, the said plaintiff, is entitled to the immediate possession thereof; that the said property was not taken from him by any process legally and properly issued against him; (or that said (horse) was exempt from seizure by any process issued out of any court in this state); and that the value of said (property) is (eighty) dollars, according to the best knowledge and belief of this affiant.

Subscribed and sworn to before me this....day of...., A. D. 19..

J. P., Justice of the Peace.

94.—Plaintiff's Bond in Replevin.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant,

Know all men by these presents, that we, W. M., plaintiff in the above entitled action, as principal, and H. N. and G. S. as sureties, are held and firmly bound unto R. R., defendant in the above entitled action, in the sum of (double the value of the property) dollars, lawful money of the United States, to be paid the said defendant, his heirs, executors, administrators or assigns; for which payment well and truly to be made, we jointly and severally bind ourselves, and each of our heirs, executors and administrators, firmly by these presents. Sealed with our seals and dated this....day of...., 19..

The condition of this obligation is such that, whereas, an affidavit has been duly made in this action, that the said defendant wrongfully detains from said plaintiff certain personal property therein described, of the value of (eighty) dollars, and said plaintiff claims the immediate delivery of such property to him, according to the statute in such case provided.

Now, therefore, if the said plaintiff shall appear on the return day of the writ and prosecute his action to judgment, and return the said property to said defendant, if a return thereof is ordered by the court, and also pay all costs and damages that may be adjudged against him, then this obligation shall be void; otherwise to remain in full force and effect.

In testimony whereof, We have hereunto set our hands and seals thisday of, A. D. 19..

Signed, sealed and delivered in presence of:

J. W.

O. W.

W. M. [Seal.]

H. N. [Seal.]

G. S. [Seal.]

(Acknowledgment, justification of sureties and approval, see forms

4, 5, 6.)

95.—Writ of Replevin.

State of Minnesota, }
County of } ss.

The State of Minnesota, to the Sheriff or Any Constable of Said County:

Whereas...., of said county, complains that....has taken and does unjustly detain the following described personal property, of the value of...dollars, to-wit:

Therefore you are commanded that you cause the same property to be replevied without delay, and if within two days after the service of this writ the said...shall require a return of the property, and shall execute to the plaintiff a good and sufficient bond, duly approved by me, according to the statute in such case made and provided, that you deliver the said property to him, but, if said bond is not given at the expiration of the two days, that you cause the said property to be delivered to the said...., and also that you summon the said.... to be and appear before me, one of the justices of the peace in and for said county, on theday of...., 19.., ato'clock in the...noon, at my office in theof...., in said county, to answer complaint of....

Given under my hand this day of, A. D. 19...

J. P., Justice of the Peace.

96.—Defendant's Bond in Replevin.

State of Minnesota, }
County of } ss.

In Justice Court,
Before J. P., Justice of the Peace.

W. M., plaintiff.
against

R. R., defendant,

Know all men by these presents, that we, R. R., defendant in the above entitled action, as principal, and H. N. and G. S. as sureties, are held and firmly bound unto W. M., plaintiff, in the above entitled action, in the sum of (double the value of the property) dollars, lawful money of the United States, to be paid to the said plaintiff, his heirs, executors, administrators or assigns; for which payment well and truly to be made, we jointly and severally bind ourselves, and each of our heirs, executors and administrators, firmly by these presents. Sealed with our seals and dated this....day of...., 19..

The condition of this obligation is such that, whereas a writ of replevin has been issued in this action, and certain personal property described therein and alleged to be the value of dollars, replevied by virtue of said writ, and said defendant requires a return of such property to him, according to the statute in such case made and provided;

Now, therefore, if said plaintiff shall be delivered to said plaintiff if delivery be adjudged, and if said plaintiff shall be paid such sum as for any cause may be adjudged against the defendant as damages or costs in said action, then this obligation shall be void; otherwise to remain in full force and effect.

In Testimony Whereof, We have hereunto set our hands and seals this....day of...., A. D. 19..

Signed, sealed and delivered in presence of:

R. R. [Seal.]

J. W.

H. N. [Seal.]

O. W.

G. S. [Seal.]

(Acknowledgment, justification of sureties and approval, see forms 4, 5, 6.)

97.—Return of Constable upon Writ of Replevin.

State of Minnesota, }
County of } ss.

I hereby certify that, by virtue of the within writ, on the day of, 19.., in said county, I replevied the personal property therein described, and retained possession thereof two days, (and no bond for re-

Law for form 95, see § 352. Law for form 96, see § 354.
Law for form 97, see § 353. Law for form 99, see § 353. Law for form 100, see §§ 326, 362.

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turn to defendant being given within two days, I delivered the same to the plaintiff, on the...day of..., 19...) I further certify and return, that on the...day of..., 19..., in said county, I served the within writ upon the within named defendant personally (by reading the same to the said defendant and delivering a copy thereof to him) (or by leaving a copy thereof at his last usual place of abode, with one C. D., a person of suitable age and discretion then residing therein. Defendant not being found.)

Fees—Mileage, 10 miles	-	-	\$1.00
Service of writ	-	-	.50
Copy of writ	-	-	.15

Total	-	-	-	-	\$1.65
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J. M., Constable.

98.—Return Where Property is Returned to Defendant.

State of Minnesota, } ss.
County of }

I hereby certify that by virtue of the within writ, on the....day of, 19.., in said county, I replevied the personal property therein described, and retained possession thereof two days, and upon notice from the justice that the defendant had given a proper bond requiring a return of said property to him, I delivered the same to the defendant, on the....day of, 19... I further certify and return, that on the....day of...., 19.., in said county, I served the within writ upon the within named defendant personally (by reading the same to the said defendant and delivering a copy thereof to him), (or, by leaving a copy thereof at his last usual place of abode, with one C. D., a person of suitable age and discretion then residing therein. Defendant not being found.)

Fees—Mileage, 10 miles	-	-	\$1.00
Service of writ	-	-	.50
Copy of writ	-	-	.15

Total - - - - \$1.65

J. M., Constable.

99.—Return—Where Property is not Found.

State of Minnesota, } ss.
County of }

I hereby certify and return, that after diligent search and inquiry the within described personal property could not be found within the said county; and on the...day of..., 19.., in said county, I served the within writ, upon the within named defendant personally (by reading the same to the said defendant and delivering a copy thereof to him), (or, by leaving a copy thereof at his last usual place of abode, with one C. D., a person of suitable age and discretion then residing therein. Defendant not being found.)

Fees—Mileage, 10 miles	-	-	\$1.00
Service of writ	-	-	.50
Copy of writ	-	-	.15

Total - - - - \$1.65

J. M., Constable.

100.—Execution in Replevin.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. B. defendant

The State of Minnesota to the Sheriff or any Constable of said County:

Whereas, judgment was rendered, on the...day of..., 19.., in a action before J. P., a justice of the peace in and for said county, between

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W. M., plaintiff, and R. R., defendant, in favor of the said W. M. (or, R. R.), and against the said R. R. (or, W. M.), for the return of the following described personal property, to-wit: (description of property); or, if a return cannot be had, for the sum of...dollars, the value of said personal property, and also for the sum of...dollars, damages for the detention thereof and for the sum of...dollars costs of suit, as appears by the judgment in said action. These are, therefore, to command you to return the possession of the said personal property to the said W. M. (or, R. R.), and to levy distress on the personal property of the said R. R. (or, W. M.), (excepting such as the law exempts), and make sale thereof, according to law in such case made and provided, to the amount of the said sum of...dollars, damages and costs, with interest, and also, in case a return of the said personal property cannot be had, the further sum of...dollars, the value of said property, with interest, together with twenty-five cents for this execution, and the same return to me within thirty days, to be rendered to the said W. M. (or, R. R.), for...said judgment, interest and costs. Hereof fail not under penalty of the law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

101.—Indorsements on Execution in Replevin.

IN JUSTICE COURT.	COUNTY OF	W. M., Plaintiff, against R. R. Defendant.	EXECUTION IN REPLEVIN.	Collect damages, - - \$..... And costs, - - - \$..... Value of property, - \$..... Total, - - - \$..... Interest thereon at six per cent from, 19.., and your fees,	Justice of the Peace.	Received the within Execution the....day of...., 19.. Constable.	At the request of the Plaintiff the within Execution is renewed to collect the sum of \$....., now due thereon with interest.	Dated...., 19.. Justice of the Peace. Filed this....day of...., 19.. Justice of the Peace.
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102.—Return of Constable—Execution in Replevin.

State of Minnesota, }
County of } ss.

I hereby certify that by virtue of the within execution, on this.... day of...., 19.., in said county, I took the personal property within described from the said R. R. (or W. M.), and delivered the same to the said W. M. (or R. R.), as within commanded. And that by virtue of the within execution on the day of, 19.., I have levied on (give inventory of goods levied on) the personal property of the within named judgment debtor.

Fees—Mileage, 10 miles	\$1.00
Service of writ	.50
Copy of writ	.15
Total	\$1.65

L. S., Constable.

(For certificate of copy or no personal property found, see forms 86-88.)

Law for form 101, see § 313. Law for form 102, see §§ 320, 362. Law for form 103, see § 365. Law for form 104, see § 370.

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103.—Affidavit in Attachment.

State of Minnesota, }
County of } ss.

W. M., being duly sworn, deposes and says, that he is the....plain-
tiff herein, that R. R., the defendant, is indebted to said plaintiff in a sum
exceeding five dollars, to-wit: the sum of (nineteen) dollars, as nearly as
he can ascertain the same, over and above all legal set-offs: that the same
is due upon contract, expressed (or implied), viz.: (upon a promissory
note, or as the case may be); and that this deponent has good reason to
believe, and does believe, that the said L. R. (is about fraudulently to
convey and dispose of his property and effects so as to hinder and delay
his creditors; or, (state any of the eight grounds of attachment). W. M.

Subscribed and sworn to before me this....day of...., A. D. 19...

J. P., Justice of the Peace.

104.—Attachment Bond—Plaintiff.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,

against

R. R., defendant.

Know all men by these presents, that we, W. M., plaintiff in the above
entitled action, as principal, and A. R. and B. F., as sureties, are held and
firmly bound, unto R. R., the defendant in the above entitled action, in
the sum of (not exceeding one hundred dollars) dollars, lawful money of
the United States, to be paid to the said defendant, his heirs, executors,
administrators or assigns, for which payment well and truly to be made,
we jointly and severally bind ourselves, and each of our heirs, executors
and administrators, firmly by these presents. Sealed with our seals and
dated this.... day of...., 19...

The condition of this obligation is such, that whereas, the above
bounden W. M., having applied to J. P., one of the justices of the peace
of said county, for a writ of attachment against the personal property of
the said defendant, and has filed an affidavit pursuant to the statute in
such case made and provided. Now, therefore, if the above named bounden
shall pay all costs that may be adjudged against.... and all damages
which the said defendant may sustain by reason of such attachment, not
exceeding the sum of one hundred dollars, if the said plaintiff fails to
recover judgment therein, then this obligation to be void, otherwise to
remain in full force and effect.

In testimony whereof, we have hereunto set our hands and seals this
.... day of...., A. D. 19...

Signed, sealed and delivered in presence of:

J. W.

R. R. (Seal)

O. W.

A. R. (Seal)

B. F. (Seal)

(Acknowledgment, justification of sureties and approval, see forms
4, 5 and 6.)

105.—Writ of Attachment.

State of Minnesota, }
County of } ss.

The State of Minnesota, to the Sheriff or any Constable of said County:

You are hereby commanded to attach the personal property of
or so much thereof as shall be sufficient to satisfy the sum of, with
interest and costs of suit, in whosoever hands or possession the same
may be found in your county, and so provide that the personal property
so attached may be subject to further proceeding thereon, as the law
requires; and also to summon the said, defendant, if to be found,
to be and appear at my office in the, in said county, on the day
of, 19..., at o'clock in the noon, to answer to the complaint
of, plaintiff, in a civil action, wherein the plaintiff claims the sum of

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....dollars, with interest thereon from the day of, 19.., at the rate of per cent. per annum; and have you then and there this writ.

Given under my hand and dated this day of, A. D. 19...

J. P., Justice of the Peace.

106.—Constable's Return Upon Writ of Attachment.

State of Minnesota, }
County of } ss.

I hereby certify that, by virtue of the within writ, on the.... day of, 19.., in said county, I attached the following personal property of the within named defendant, viz.: (enumerating them; or if the personal property is numerous, annex an inventory, and say: "Mentioned in the annexed inventory, and made such inventory of said personal property"). I further certify and return, that on the day of, 19.., in said county, I served the within writ, with a certified inventory of the property attached, upon the within named defendant personally, by reading the same to the said defendant and delivering a copy thereof to....

Fees—Mileage, 10 miles	-	-	-	\$1.00
Service	-	-	-	.50
Copy	-	-	-	.15
Copy of inventory	-	-	-	.15
Total	-	-	-	\$1.80

J. M., Constable.

107.—Return—Levy on Crop.

State of Minnesota, }
County of } ss.

I hereby certify that by virtue of the within writ, on theday of, 19.., I attached all the right, title and interest of the within named defendant, in and to the growing crop of sown and planted in the spring of 19.., on the following described real estate, situate in said county and state, viz.: (here give description of real estate) and now hold the same as provided by law. I further certify and return, that on the day of, 19.., in said county, I served the within writ with a certified inventory of the property attached, upon the within named defendant personally, by reading the same to the said defendant and delivering a copy thereof to, and that on the day of, 19.., I filed with the clerk of the town in which the said property is situated, a certified copy of the within writ and of my return of levy by virtue thereof.

Fees—Mileage, 16 miles	-	-	-	\$1.60
Service	-	-	-	.50
Copies of writ	-	-	-	.30
Copies of inventory	-	-	-	.30
Clerk's fees	-	-	-	.25
Total	-	-	-	\$2.95

J. M., Constable.

108.—Return—Resident Defendant Not Personally Served.

State of Minnesota, }
County of } ss.

I hereby certify that by virtue of the within writ, on the day of, 19.., in said county, I attached the following personal property of the within named defendant, viz., (enumerating them; or if the personal property is numerous, annex an inventory, and say: "Mentioned in the annexed inventory, and made such inventory of personal property,"): I further certify and return, that on the day of, 19.., in said county, I served the within writ, with a certified inventory of the prop-

Law for form 106, see §§ 290, 371. Law for form 108, see 371.

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erty attached, upon the within named defendant, by leaving a copy thereof at the last usual place of abode of said defendant with one Q. C., a person of suitable age and discretion then resident therein, defendant not being found.

Fees—Mileage, 10 miles	- - - -	\$1.00
Service	- - - -	.50
Copy	- - - -	.15
Copy of inventory	- - - -	.15
Total	- - - -	\$1.80

J. M., Constable.

109.—Return—Non-Resident Defendant of the County.

State of Minnesota, }
County of } ss.

I hereby certify that by virtue of the within writ, on the day of, 19.., in said county, I attached the following personal property of the within named defendant, viz.: (enumerating them; or if the personal property is numerous, annex an inventory, and say: "Mentioned in the annexed inventory, and made such inventory of said personal property,": And I further certify and return that after diligent search and inquiry the said defendant cannot be found within said county, therefore, I left a copy of said writ (and certified inventory of the property attached) with G. D., the person in whose possession the said personal property was found.

Fees—Mileage, 10 miles	- -	\$1.00
Service	- - - -	.50
Copy	- - - -	.15
Copy of inventory	- -	.15
Total	- - - -	\$1.80

J. M., Constable.

110.—Affidavit of Residence of Defendant.

State of Minnesota, }
County of } ss.
In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff,
against

R. R., defendant,

W. M., being duly sworn, says that R. R., the defendant in the above entitled action, does not reside in said county, but resides in the county of, and State of Minnesota. W. M.

Subscribed and sworn to before me this....day of...., A. D. 19..
J. P., Justice of the Peace.

111.—Publication of Attachment—Return of Officer.

I hereby certify that by virtue of the within writ, on the....day of, 19.., in said county, I attached the following personal property of the within named defendant, viz., (enumerating them; or if the personal property is numerous, annex an inventory, and say: "Mentioned in the annexed inventory, and made such inventory of said personal property,"): And I further certify and return that after diligent search and inquiry the said defendant cannot be found within this state (or, is a non-resi-

Note to form 109.—When the defendant resides in another county which is made to appear by affidavit, the action may be continued for twenty days and the summons may be served as in District courts.

Law for form 109, see § 372. Law for form 111, see § 374. Law for form 112, see § 374. Law for form 113, see §§ 374, 103.

Note to form 110.—For forms of summons, proof of publication and mailing copy of summons and complaint, use forms 18, 19 and 20.

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dent of this state) (or that he keeps himself concealed therein to avoid the service of legal process), and that the residence of said defendant is to me unknown.

Fees—Mileage, 10 miles	-	-	\$1.00
Service	-	-	.50
Copy	-	-	.15
Copy of inventory	-	-	.15

Total	-	-	-	\$1.80
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J. M., Constable.

112.—Publication in Attachment—Affidavit.

State of Minnesota,	}	ss.	Before J. P., Justice of the Peace.
County of	}		In Justice Court,

W. M., plaintiff,
against

R. R., defendant,

State of Minnesota,	}	ss.
County of	}	

W. M. being duly sworn, deposes and says, that he is the plaintiff (or attorney for the plaintiff) in the above entitled action, and that R. R., the defendant, (or one of the defendants) in the above entitled action, cannot be found in the state; (or that he keeps himself concealed within the state to avoid the service of legal process—giving the facts and circumstances showing the concealment, or his absence from the state.) (If defendant's residence is known add): but resides at...., in the state of....

W. M.

Subscribed and sworn to before me this....day of...., A. D. 19..

J. P., Justice of the Peace.

113.—Order of Publication in Attachment.

State of Minnesota,	}	ss.	In Justice Court,
County of	}		Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant,

Whereas, it appears from the return of the officer upon a writ of attachment, issued by me against the personal property of R. R., the defendant herein, that he has attached property in his county, belonging to said defendant and it is further made to appear to my satisfaction by the return of the officer executing said writ, and by the affidavit of W. M., plaintiff herein, that said defendant (or either of the defendants) cannot be found in the state (but resides at...., in the state of....), (or that he keeps himself concealed in the state to avoid the service of legal process): It is ordered that service of the summons in this action be made upon the said defendant, requiring him to be and appear before the undersigned, one of the justices of the peace in and for said county, on the....day....of, 19.., at....o'clock,M., at my office, in the....of...., in said county, to answer to the complaint of W. M., plaintiff, in a civil action, by publication of said summons in the...., a weekly newspaper, published in said....county, once in each week for three weeks. (If defendant's residence is known, add the following): Also that a copy of the summons and complaint herein be forthwith deposited in the post-office, postage prepaid, and directed the defendant at...., in the state of.... Given under my hand this....day of...., A. D. 19....

J. P., Justice of the Peace

FORMS AND INSTRUCTIONS

114.—Receipt for Goods Levied On.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace
W. M., plaintiff,
against
R. R., defendant,
Attachment (or execution) issued . . . , 19. . . , by said justice, against
the personal property of said defendant, for \$19.00
Officer's costs (or total costs) 2.27

Total \$21.27

Under the said attachment (or execution) T. B., one of the constables
of said county, has levied upon the following personal property of said
defendant, viz.:

10 Hogs, worth \$1 each \$10.00
1 Lumber wagon—one-horse 35.00
1 Three-year-old red steer 15.00

Total \$60.00

. . . , 19. . . Received of the said J. M., the personal property above men-
tioned, which I promise to deliver to him in said county at any time he
shall demand the same; or in default thereof, I do hereby agree with
the said J. M., to pay him the amount of the above mentioned debt, as
the same is above specified, together with all costs, fees and interests
on the same. W. M.

115.—Affidavit of Title to Property Levied On.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,

J. D., of said county, being duly sworn, says, that he is the owner
and is entitled to the immediate possession of the following personal
property levied upon, seized and taken by J. M., constable of the town
of . . . , in (or sheriff of) said county, by virtue of a writ of execution
(replevin or attachment) issued by J. P., a justice of the peace of said
county, viz.: (describe the property claimed); that the value of said
property is (eighty) dollars; that the ground of such title or right of
possession is (state it): and affiant demands immediate delivery of
said property to him.

Subscribed and sworn to before me this . . . day of . . . , 19. . .
J. P., Justice of the Peace.

116.—Notice to Officer of Claim to Property.

(Indorse on the back of No. 115, the following notice:)

To J. M., constable in and for said county:

Take notice, that I claim the personal property mentioned in the
within affidavit herewith served upon you, and demand that you deliver
the said property to me. Dated . . . , 19. . . J. D.

Note to form 114.—This form is not required by the statute, but the practice
of taking a responsible receiptor is recommended. It may be used after levy
under execution as well as attachment.

Law for form 114, see § 329. Law for form 115, see § 358. Law for
form 116, see § 358.

Note to form 117.—This form is for the cases stated, but a prudent officer
will many times require it, both in attachment and under execution.

Law for form 117, see § 358. Law for form 118, see § 375. Law for form
119, see § 375. Law for form 120, see § 376.

FORMS AND INSTRUCTIONS

dollars costs of suit), has seized (or is about to levy the same upon) (describe the property to be seized), with intent to sell the same and satisfy the said debt; Now, therefore, if the said personal property shall be forthcoming when and where the said justice shall direct, and shall abide the judgment which may be rendered in such cause, then this obligation shall be void, otherwise to remain in full force and effect.

In testimony whereof, We have hereunto set our hands and seals this....day of...., A. D. 19..

Signed sealed and delivered in the presence of	J. D. [Seal.]
W. R.	J. B. [Seal.]
J. S.	L. O. [Seal.]

(Acknowledgment, justification of sureties, and approval, see forms 4, 5, 6.)

119.—Bond of Third Party—To Retain Possession.

State of Minnesota, } County of }	ss.	In Justice Court, Before J. P., Justice of the Peace.
		W. M., plaintiff, against R. R., defendant,

Know all men by these presents, That we, J. D., as principal, and J. B. and L. O., as sureties, are held and firmly bound unto W. M., plaintiff in the above entitled action, in the sum of (seventy)....dollars, lawful money of the United States, to be paid to the said W. M., his heirs, executors, administrators or assigns, for which payment well and truly to be made, we jointly and severally bind ourselves and each of our heirs, executors and administrators, firmly by these presents.

Sealed with our seals, and dated this day of, 19...

The condition of this obligation is such, that whereas, J. M., a constable of the aforesaid county, by virtue of a certain writ of attachment issued by J. P., one of the justices of the peace in and for said county, against the personal property of R. R., in favor of the said W. M., for the sum of (seventy) dollars has seized (or is about to levy upon) (describe the property to be seized) with intents to sell the same and satisfy the said debt;

Now, therefore, if the said personal property shall be forthcoming when and where the said justice shall direct, and shall abide the judgment which may be rendered in such cause, then this obligation shall be void; otherwise to remain in full force and effect.

In testimony whereof, we have hereunto set our hands and seals this....day of...., A. D. 19..

Signed, sealed and delivered in presence of	J. D. [Seal.]
W. R.	J. B. [Seal.]
J. S.	L. O. [Seal.]

(Acknowledgment, justification of sureties and approval, see forms 4, 5 & 6.)

120.—Order of Sale of Perishable Property.

State of Minnesota, } County of }	ss.	In Justice Court, Before J. P., Justice of the Peace.
		W. M., plaintiff, against R. R., defendant,

Whereas, certain personal property to-wit: (describing it), has been seized by J. M., constable, on an attachment issued by me in the above entitled action, which said property is likely to perish or depreciate in value before the probable end of the action (or the keeping of which would be attended with much loss or expense): Now, therefore, J. M., the said constable, is hereby required to sell the said property at public vendue in the same manner and on the same notice as goods are re-

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quired to be sold on an execution, and to retain the proceeds of such sale, subject to be disposed of as the property would have been had it remained unsold. Given under my hand this....day of...., A. D. 19..
J. P., Justice of the Peace.

121.—Bond Dissolving Attachment.

State of Minnesota, } County of } ss.	In Justice Court, Before J. P., Justice of the Peace. W. M., plaintiff, against R. R., defendant,
---	---

Know all men by these presents, that we, R. R., the defendant in the above entitled action, as principal and J. D. and J. B., as sureties, are held and firmly bound unto W. M., the plaintiff in the above entitled action, in the sum of (fifty) dollars, lawful money of the United States, to be paid unto the said plaintiff, his heirs, executors, administrators or assigns, for which payment well and truly to be made, we jointly and severally bind ourselves, and each of our heirs, executors and administrators, firmly by these presents.

Sealed with our seals and dated this....day of...., 19..

The condition of this obligation is such, that whereas J. M., a constable of the aforesaid county, by virtue of a certain writ of attachment issued by J. P., one of the justices of the peace in and for said county, against the personal property of R. R., the defendant, in favor of W. M., the plaintiff, for the sum of (nineteen) dollars, has seized the following described personal property, to-wit: (describe the property seized) with intent to sell the same and satisfy the said debt;

Now, therefore, if the above named bounden shall pay the full amount of such judgment as shall be rendered against him in said suit, together with all costs and interest thereon, then this obligation shall be void; otherwise to remain in full force and effect.

In testimony whereof, we have hereunto set our hands and seals this....day of...., A. D. 19..

Signed, sealed and delivered in presence of	R. R. [Seal.]
W. R.	J. D. [Seal.]
J. S.	J. B. [Seal.]

(Acknowledgement, justification of sureties and approval, see forms 4, 5 & 6.)

122.—Notice to Constable—Dissolution of Attachment.

State of Minnesota. } County of } ss.	In Justice Court, Before J. P., Justice of the Peace. W. M., plaintiff, against R. R., defendant,
---	---

To J. M., constable (or sheriff):

You are hereby notified that the defendant in the above entitled action has appeared and pleaded to the action, and given bond to the plaintiff with good and sufficient surety approved by me, as provided by law, and has moved to dissolve the attachment issued herein; which motion was allowed and said attachment dissolved. You are therefore required to release the property and effects levied on by you under said attachment, and deliver the same to the defendant herein. Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

123.—Constable's Return—To be Endorsed on Dissolution Notice.

State of Minnesota, }	
County of }	ss.

I hereby certify that by virtue of the within notice and direction, to me, I did, on the....day of...., 19.., release the property levied upon

Law for forms 121, 122, 123, see § 379. Law for form 124, see § 383.

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by me in the within entitled action, and delivered the same to the said defendant. Dated...., 19.. J. M., Constable.

124.—Garnishee Affidavit.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,
and A. M., garnishee.

W. M., being duly sworn, deposes and says, that he is the plaintiff (or the attorney, or agent of the plaintiff) in the above entitled action; that affiant believes that A. M., the garnishee in this action, has property and money in his hands or under his control, belonging to R. R., the defendant in this action, exceeding ten dollars in value, and that said garnishee is indebted to the said defendant in an amount exceeding the sum of ten dollars.

Subscribed and sworn to before me this....day of...., A. D. 19..
J. P., Justice of the Peace.

125.—Garnishee Summons.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,
and A. M., garnishee.

The state of Minnesota to A. M., garnishee:

Whereas, the affidavit of W. M., the above named plaintiff, has been made and filed with the undersigned, one of the justices of the peace in and for said county, in an action before said justice, wherein the said W. M. is plaintiff and the said R. R. is defendant, stating that he believes that A. M., the garnishee in this action, has property and money in his hands and under his control, belonging to the defendant in this action, exceeding ten dollars in value, and that the said garnishee is indebted to the said defendant in an amount exceeding the sum of ten dollars; Now, therefore, you are hereby summoned and required to be and appear before the undersigned, one of the justices of the peace in and for said county, on the...day of..., 19.., at...o'clock in the ...noon, at my office in the...of..., in said county, and answer, under oath, such questions as may be put to you touching your indebtedness to the above named defendant, and touching any property or money of the said defendant in your possession or under your control. Given under my hand this...day of..., A. D. 19..

J. P., Justice of the Peace.

126.—Notice to Defendant.

State of Minnesota, } ss.
County of }

To R. R., defendant:

Sir: Take notice, that a garnishee summons, of which the within is a true copy, and which is herewith served upon you, was on the.... day of...., 19.., at the...of...., in the county of...., said state, served upon A. M., the within garnishee personally, by reading the same to the said garnishee and delivering a copy thereof to him, and that at said time and place the said garnishee was paid (or tendered) in advance the sum of (\$1.12), his fees for one day's attendance and mileage.

Now, therefore, you are hereby required to appear and take part in

Law for form 126, see § 364. Law for form 127, see §§ 387, 386. Law for form 128, see §§ 364, 390. Law for forms 129, 130, see § 390. Law for form 131, see § 413.

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said examination, to take place at the time and place as specified in the within summons. Dated...., 19.. J. P., Justice of the Peace,
(or J. M., Constable.)

127.—Constable's Return.

State of Minnesota, }
County of } ss.

I hereby certify and return, that on the....day of...., 19.., at theof...., in the county of...., said state, I served the within summons upon the within named garnishee personally, by reading the same to the said garnishee and delivering a copy thereof to him, and paid (or tendered) him in advance the sum of (\$1.12), his fees for one day's attendance and mileage; and that, on the....day of...., 19.., in said county, I served the within summons and notice to the defendant, upon the within named defendant personally, by reading the same to the defendant and delivering a copy thereof to him. J. M., Constable.

Fees—Service of Summons	-	-	\$.50
Service of Notice	-	-	.15
Copies of Summons	-	-	.60
Copy of notice	-	-	.15
Mileage, 6 miles	-	-	.60

Total - - - - - \$2.10

128.—Notice of Postponement—To Defendant.

State of Minnesota, }
County of } ss.

To R. R., Defendant:

Sir: Take notice, that a garnishee summons, of which the within is a true copy, and which is herewith served upon you, was on the....day of...., 19.., at the....of...., in the county of...., said state, served upon A. M., the within garnishee personally, by reading the same to the garnishee and delivering a copy thereof to him, and at said time and place the said garnishee was paid (or tendered) in advance the sum of (\$1.12), his fees for one day's attendance and mileage.

And, whereas, at the said time and place it appeared that the plaintiff in said action was unable to notify the defendant, as required by law, the said examination was postponed to the....day of...., 19.., at....o'clock in the....noon (four days' notice), to enable the plaintiff to notify the defendant of the time and place of such examination. Now, therefore, you are hereby required to appear and take part in said examination, to take place at the time and place as specified in the within summons. Dated...., 19.. J. P., Justice of the Peace.
(or J. M., Constable.)

129.—Oath to Garnishee.

"You do swear that you will true answers make to such questions as may be put to you touching your indebtedness to the defendant in this case, and touching any property, money or effects of the defendant in your possession or under your control. So help you God."

130.—Minutes of Examination.

State of Minnesota, }
County of } ss. In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant,
and A. M., garnishee.

The examination of A. M., garnishee, taken on oath before me on the....day of...., 19.., at....o'clock...M., at my office in said county:

The said A. M., first being duly sworn, deposes and says: (here write his testimony in full.) A. M.

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Taken, subscribed and sworn to before me and reduced to writing by me, this...day of..., A. D. 19... J. P., Justice of the Peace.

131.—Garnishee Bond to Release Garnished Property.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.

W. M., plaintiff,
against
R. R., defendant,
and A. M., garnishee.

Know all men by these presents, that we, R. R., as principal, and J. D. and J. B. as sureties, are held and firmly bound unto W. M., in the above entitled action, in the sum of (one hundred) dollars, lawful money of the United States, to be paid to the said W. M., his heirs, executors, administrators or assigns, for which payment well and truly to be made, we hereby bind ourselves and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this...day of..., 19...

The condition of this obligation is such, that whereas, the above named W. M., plaintiff, has commenced an action in the aforesaid court against the said R. R., defendant, and has garnisheed the money and property and effects of the said R. R., defendant, in the hands of A. M., garnishee; (or if defendant brings the garnishee suit, say): "in which action a counterclaim has been interposed in the answer of the said defendant, which counterclaim exceeds in amount the amount admitted to be due in said answer; (or in which action the said defendant has recovered a judgment of \$.... against the said plaintiff) said R. R., defendant, has garnished the money and property of the said W. M., plaintiff, in the hands of A. M., garnishee."

Now, therefore, the condition of this obligation is such that, if the said R. R. (or W. M.) shall pay any judgment which may be recovered against him in the said action, or an amount thereof equal to the value of the money, property and effects, so garnished, then this obligation shall be void, otherwise to remain in full force and effect.

In testimony whereof, we have hereunto set our hands and seals this...day of..., A. D. 19...

Signed, sealed and delivered in presence of

W. R.	R. R. [Seal.]
J. S.	J. D. [Seal.]
	J. B. [Seal.]

(Acknowledgement, justification of sureties and approval, see forms 4, 5 & 6.)

132.—Order Releasing Garnished Property.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.

W. M., plaintiff,
against
R. R., defendant.
and A. M., garnishee.

Whereas, the property and money of the above named R. R. (or W. M.) have been garnished in the hands of the said A. M.; and, whereas, the said R. R. (or W. M.) has made and filed the bond required by law for the release thereof, in pursuance of the statute;

Now, therefore, it is ordered that the said garnishment be, and the same is, hereby discharged, and the said property and money of the said R. R. or W. M. are hereby released from such garnishment, and upon a service of a copy of this order upon the said A. M., the defendant shall have the same power to receive or collect the money or property so garnished, in the same manner as if such garnishee proceedings had never been instituted. Given under my hand, this...day of... A. D. 19... J. P., Justice of the Peace.

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133.—Affidavit on Appeal.

State of Minnesota, }
County of } ss. In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff.
against
R. R., defendant.

R. R., the defendant (or plaintiff) in this action, being duly sworn, says, that he appeals to the district court in and for said county, from the judgment rendered by said justice of the peace in this cause, on theday of...., 19.., in favor of said W. M., and against said R. R., therein; and that the said appeal is made in good faith, and not for the purpose of delay.

Subscribed and sworn to before me this....day of.... A. D. 19..
J. P., Justice of the Peace.

134.—Bond on Appeal.

State of Minnesota, }
County of } ss. In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff.
against
R. R., defendant.

Know all men by these presents, that we, R. R., as principal, and J. D. and J. B., as sureties, are held and firmly bound unto W. M., in the sum of (one hundred) dollars, lawful money of the United States, to be paid to the said W. M., his heirs, executors or assigns, for which payment well and truly to be made, we jointly and severally bind ourselves and each of our heirs, executors, and administrators firmly by these presents. Sealed with our seals and dated this....day of...., 19..

The condition of this obligation is such, that whereas, the said R. R. appeals to the district court in and for said county, from a certain judgment rendered by said justice of the peace in said cause, on the....day of...., 19.., in favor of said W. M. and against said R. R. for the sum of \$..... Now, therefore, if the said appellant shall prosecute his appeal with effect, and abide the order of the court therein, then this obligation to be void, otherwise to remain in full force and effect.

In testimony whereof, we have hereunto set our hands and seals this....day of...., A. D. 19..

Signed, sealed and delivered in presence of
W. R. R. R. [Seal.]
J. S. J. D. [Seal.]
J. B. [Seal.]

(Acknowledgment, justification of sureties and approval, see forms 4, 5 & 6.)

135.—Notice of Appeal.

State of Minnesota, }
County of } ss. In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant.

To W. M., plaintiff (or R. R., defendant) and....his attorney:

Please take notice, that the above named W. M. (or R. R.) appeals to the district court in and for said county, from the judgment rendered by said justice of the peace in the above entitled cause, on the....day of...., 19.., in favor of said W. M., and against R. R., therein, for the sum of \$....; and that the said appeal is taken upon question of (law alone), (or of both law and fact).

Dated this....day of...., A. D. 19..

Law for form 132, see § 413. Law for form 133, see §§ 415, 416. Law for forms 134, 135, see § 416.

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136.—Admission of Service of Notice.

(Indorse on the back of the notice): "Due and personal service of the within notice of appeal is hereby admitted at...., this....day of...., 19.. (Signed by party or attorney.)"

137.—Affidavit of Service of Notice.

State of Minnesota, }
County of } ss.

R. R. (or W. M.), being duly sworn, says, that on the....day of...., 19.., at the....of...., in said county, he served the within notice of appeal upon W. M., the within named plaintiff personally, (or R. R., the defendant), (or his agent or attorney), by delivering to and leaving with him a true and correct copy thereof, (or by leaving a true and correct copy thereof at his last usual place of abode with one C. D., a person of suitable age and discretion then resident therein). R. R.

Subscribed and sworn to before me this....day of...., A. D. 19..

J. P., Justice of the Peace.

138.—Justice's Return to an Appeal.

State of Minnesota, }
County of } ss.

In Justice Court,

Before J. P., Justice of the Peace.

W. M., plaintiff,

against

R. R., defendant.

An appeal having been made from the judgment rendered by me in said action, I hereby make return of the proceedings had before me therein, pursuant to the statute, as appears from my docket, viz.:

"Summons issued," etc., etc., (giving a full transcript of all the entries made in the docket, including rulings, exceptions, etc. Also the fact of appellant filing the proper affidavit, bond and notice, with proof of service, the allowance of the appeal, and payment of the justice's fees for return (if demanded by him), and add in conclusion the following certificate):

State of Minnesota, }
County of } ss.

I hereby certify that I have compared the foregoing with the original entries in my docket, and that the same is a full and correct transcript thereof, and of all the proceedings had before me in said cause, (that the minutes of evidence hereto annexed contain all the evidence given upon the trial of said action); that the affidavit, bond and notice of appeal, together with all the process and other papers relating to the action and filed with me, or had before me therein, are herewith returned and attached, and numbered from (1) to (8), inclusive; and that, together with the foregoing transcript, they contain a full, correct and complete statement of all the proceedings had before me in said action.

J. P., Justice of the Peace.

Given under my hand this....day of...., A. D. 19..

TITLE III.—JUSTICES' CRIMINAL FORMS.

139.—Oath to Complainant.

"You do swear that you will true answers make to such questions as shall be put to you touching this complaint against R. F. So help you God."

Note to Title III.—These forms are made up to conform to the law, a part of which is found in Chapter XIX and a part in §§ 1427 to 1487, inclusive, of the penal code in this Manual.

Note to form 139.—This oath is to be administered to the complainant in the first instance in all criminal cases (see §§ 777, 781, 791) before he makes his statement and before his complaint is reduced to writing.

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140.—Criminal Complaint—Security for the Peace.

State of Minnesota, }
County of } ss.

The complaint of J. D., of said county, made before J. P., one of the justices of the peace in and for said county, who, being duly sworn, on his oath, says, that on the....day of...., 19.., at the....of...., in said county, R. F., did wilfully, wrongfully and unlawfully threaten (to beat, wound or maim, as the case may be) the said J. D., and to do him great bodily harm; or (to burn his dwelling-house) and that he has great cause to fear the said R. F. will beat, etc., (as above). The said J. D., therefore, prays security of the peace to be granted him against the said R. F., and this he does, not from any private malice or ill-will towards the said R. F., but simply because he is afraid, and has good cause to fear, that the said R. F. will beat, etc., (as above), against the form of the statute in such case made and provided, and against the peace and dignity of the state of Minnesota, and prays that the said R. F. may be arrested and dealt with according to law. J. D.

Subscribed and sworn to before me this....day of...., A. D. 19..

J. P., Justice of the Peace.

141.—Warrant.

State of Minnesota, }
County of } ss.

The state of Minnesota to the sheriff or any constable of said county:

Whereas, J. D. has this day complained in writing to me, on oath, that on the....of...., 19.., at the....of...., in said county R. F. did (here state the offense as in the complaint), against the form of the statute in such case made and provided, and against the peace and dignity of the state of Minnesota, and prayed that the said R. F. might be arrested and dealt with according to law; Now, therefore, you are commanded forthwith to apprehend the said R. F., and bring him before me, to be dealt with according to law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

142.—Order to Arrest on Sunday.

State of Minnesota, }
County of } ss.

To the sheriff or any constable of said county:

You are hereby directed and required to arrest the within named defendant at any and all times, either on Sunday or at night, wherever he may be found.

Dated...., 19..

J. P., Justice of the Peace.

143.—Constable's Return—On Warrant.

State of Minnesota }
County of } ss.

I hereby certify and return, that by virtue of the within warrant I have arrested the within named defendant, and have him now before the court in custody.

Dated this....day of...., 19...

J. M., Constable.

Fees—Mileage, 15 miles	- - - -	\$1.50
Service - - - -	- - - -	.25
Attendance in court, one day	- - - -	1.00
Total	- - - -	\$2.75

Law for form 140, see §§ 790, 791. Law for form 141, see §§ 835, 1429.
Note to form 143.—Forms Nos. 140, 141, 142, 143, 144 and 146 might serve as models from which to frame proper forms to be used in examinations, or trials, or other prosecutions.

Law for form 143, see § 790. Law for form 144, see §§ 798, 1431. Law for form 146, see §§ 796, 806, 1432.

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144.—Recognizance—Surety for the Peace.

State of Minnesota, }
County of } ss.

We, R. F., as principal, and J. B. and L. O., as sureties, acknowledge ourselves to owe and be indebted unto the state of Minnesota in the sum of (two hundred) dollars, to be levied of our several goods and chattels, lands and tenements, to the use of said state, if default be made in the condition following, to-wit:

The condition of this recognizance is such, that if the above bounded R. F. shall and does keep the peace, and be of good behavior, for the period of (three) months from the date hereof, towards all the people of this state, and especially towards J. D., then this recognizance shall be void; otherwise to remain in full force and effect.

R. F.
J. B.
L. O.

Taken and acknowledged before me this...day of..., A. D. 19..
J. P., Justice of the Peace.

145.—Justification and Approval of Sureties.

State of Minnesota, }
County of } ss.

J. B. and L. O., being duly sworn, say, each for himself, that he is one of the sureties in the foregoing recognizance; that he is a resident and freeholder of the state of Minnesota, and worth the sum (two hundred) dollars, above his debts and liabilities, and exclusive of his property exempt from execution.

J. B.
L. O.

Subscribed and sworn to before me, this...day of..., 19..
J. P., Justice of the Peace.

I hereby approve the within recognizance and sureties thereon.
Dated..., 19..
J. P., Justice of the Peace.

146.—Commitment Before Trial.

State of Minnesota, }
County of } ss.

The state of Minnesota, to the sheriff or any constable, and to the keeper of the common jail of said county:

Whereas, R. F. has been this day brought before the undersigned, one of the justices of the peace in and for said county, charged upon the oath of J. D. with having on the...day of..., 19.., at the...of..., in said county (here state the offense as in the complaint); and, the said R. F. not having given bail to appear and answer for the said offense; Therefore, you, the said constable, are commanded forthwith to convey and deliver into the custody of the said keeper the body of the said R. F., and you, the said keeper, are hereby commanded to receive the said R. F. into your custody in the said jail, and him there safely keep until he shall be required to be brought before the court to be tried, or shall be otherwise discharged by due course of law.

Given under my hand this...day of..., A. D. 19..
J. P., Justice of the Peace.

147.—Commitment upon Sentence.

State of Minnesota, }
County of } ss.

The state of Minnesota, to the sheriff or any constable, and to the keeper of the common jail of said county:

Whereas, at a justice court, held at my office in said county, for the trial of R. F. for the offense hereinafter stated, the said R. F. was convicted of having, on the...day of..., 19.., in said county, (here state

Note to form 144.—In this, and all criminal recognizances, it is advisable to have the sureties justify, and their justification and approval indorsed on the recognizance.

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the offense as in the complaint) and upon conviction the said court did adjudge and determine, that the said R. F. should be imprisoned in the common jail of said county for (thirty) days; therefore, you, the said constable, are commanded forthwith to convey and deliver the said R. F. to the said keeper; and you, the said keeper, are hereby commanded to receive the said R. F. into your custody in the said jail, and him there safely keep until the expiration of said (thirty) days, or until he shall be thence discharged by due course of law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

148.—Commitment upon Sentence—Fine not Paid.

State of Minnesota, }
County of } ss.

The state of Minnesota, to the sheriff or any constable, and to the keeper of the common jail of said county:

Whereas, at a justice court, held at my office in said county, for the trial of R. F. for the offense hereinafter stated, the said R. F. was convicted of having, on the....day of...., 19.., in said county, (here state the offense as in the complaint) and upon conviction the said court did adjudge and determine, that the said R. F., should pay a fine of (\$10) and the costs of prosecution taxed at (\$4.50), and in default of payment of said fine and costs, be imprisoned in the common jail of said county for (thirty) days; therefore, the payment of said fine and costs having been defaulted, you, the said constable, are commanded forthwith to convey and deliver the said R. F. to the said keeper; and you, the said keeper, are hereby commanded to receive the said R. F. into your custody, in the said jail, and him there safely keep until the expiration of said (thirty) days, or until he shall be thence discharged by due course of law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

149.—Commitment—Surety for the Peace.

State of Minnesota, }
County of } ss.

The state of Minnesota, to the sheriff or any constable, and to the keeper of the common jail of said county:

Whereas, at a justice court, held at my office in said county, for the trial of R. F. for the offense hereinafter stated, the said R. F. was convicted of having, on the....day of...., 19.., in said county, (here state the offense as in the complaint) and upon conviction the said court did adjudge and determine, that the said R. F., should enter into a recognizance, with two sureties, in the sum of (three hundred) dollars, to keep the peace and be of good behavior for a period of (three) months, and pay the costs of prosecution taxed at (\$4.50), and in default thereof, be imprisoned in the common jail of said county for (three) months; therefore, the said R. F., having refused and neglected to comply with said order, you, the said constable, are commanded forthwith to convey and deliver the said R. F. to the said keeper; and you, the said keeper, are hereby commanded to receive the said R. F. into your custody, in the said jail, and him there safely keep until the expiration of said (thirty) days, or until he shall be thence discharged by due course of law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

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150.—Jailer's Receipt Indorsed on Commitment.

State of Minnesota, }
County of } ss.

I hereby certify that I have this day received into my custody the within named R. F., and have lodged him in the common jail of said county, as within commanded. Dated this...day of...., 19..

S. P., Sheriff, by G. S., Deputy.

151.—Constable's Return on Commitment.

State of Minnesota, }
County of } ss.

I hereby certify and return, that by virtue of the within warrant, I have delivered the within named R. F. to the keeper of the common jail of the said county, as appears by his certificate indorsed hereon.

Dated this...day of...., 19..

Fees—Mileage, 2 miles	\$.20
Committing to prison	.50

Total	\$.70
-------	--------

J. M., Constable.

152.—Certificate of Copy by Sheriff.

State of Minnesota, }
County of } ss.

I hereby certify that I have carefully compared the within commitment and returns thereon with the original commitment now in my hands and that the same is a true copy thereof.

Dated...., 19..

S. P., Sheriff.

153.—Order Discharging Prisoner.

State of Minnesota, }
County of } ss.

In Justice Court,
Before J. P., Justice of the Peace.

The State of Minnesota, plaintiff,
 against
R. F., defendant.

The state of Minnesota to the keeper of the common jail of said county:

You are hereby commanded to forthwith discharge out of your custody the body of R. F., if detained for no other cause than that specified in his warrant of commitment, given under (my) hand (or the hand of J. P., one of the justices of the peace in and for said county) on the.... day of...., 19.., for (not entering into recognizance to keep the peace); he having since his said commitment given such security (and paid such costs) as was required.

Given under my hand this...day of...., A. D. 19..

J. P., Justice of the Peace.

154.—Recognizance for the Peace Without Process.

State of Minnesota, }
County of } ss.

We, R. F., as principal, and J. B. and L. O., as sureties, acknowledge ourselves to owe and be indebted unto the state of Minnesota in the sum of (two hundred) dollars, to be levied of our several goods and

Note to form 150.—When a prisoner is confined in jail by virtue of any process directed to the sheriff, the sheriff should make a copy of the same, with his return indorsed thereon, and such copy, duly certified by such sheriff, will be prima facie evidence of his right to retain such prisoner in custody.

The sheriff should first indorse his return on the original commitment, as in form 150, and then make a certified copy of the commitment and his return indorsed thereon, and retain the original as his authority, the constable should return the copy of the commitment to the justice who issued it, with the foregoing returns indorsed thereon.

Law for form 153, see § 784. Law for form 154, see § 782. Law for form 155, see §§ 777, 779.

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chattels, lands and tenements, to the use of said state, if default be made in the condition following, to-wit:

Whereas, on the....day of...., 19.., at the....of...., in said county, in the presence of J. P., one of the justices of the peace in and for said county, the said R. F. did (wilfully, wrongfully and unlawfully make an affray or threaten to kill J. D.; or to beat J. D.; or to commit any violence or outrage against his person or property; or did contend with hot and angry words, to the disturbance of the peace;) and the said J. P. did thereupon, without process, order said R. F. to enter into a recognizance with sufficient sureties in the sum of \$200, to keep the peace and be of good behavior for the term of (six) months; The condition of this recognizance is such, that if the above bounded R. F. shall and does keep the peace, and be of good behavior, for the period of (three) months from the date hereof, towards all the people of this state, and especially towards J. D., then this recognizance shall be void; otherwise to remain in full force and effect.

R. F.

J. B.

L. O.

Taken and acknowledged before me this....day of...., A. D. 19..

J. P., Justice of the Peace.

(Justification and approval of sureties, see form 145.)

155.—Commitment Without Process.

State of Minnesota, }
County of } ss.

The state of Minnesota to the sheriff or any constable, and to the keeper of the common jail of said county:

Whereas, on the....day of...., 19.., at the....of...., in said county, in the presence of J. P., one of the justices of the peace in and for said county, R. F. did (wilfully, wrongfully and unlawfully make an affray or threaten to kill J. D.; or to beat J. D.; or to commit any violence or outrage against his person or property; or did contend with hot and angry words, to the disturbance of the peace;) and the said J. P. did thereupon, without process, order said R. F. to enter into a recognizance with sufficient sureties, in the sum of (\$200) to keep the peace and be of good behavior for the term of (six) months; therefore, the said R. F., having refused and neglected to comply with said order, you, the said constable, are commanded forthwith to convey and deliver the said R. F. to the said keeper; and you, the said keeper, are hereby commanded to receive the said R. F. into your custody, in the said jail, and him there safely keep until the expiration of said (thirty) days, or until he shall be thence discharged by due course of law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

156.—Recognizance Upon Continuance or Adjournment.

State of Minnesota, }
County of } ss.

We, R. F., as principal, and J. B. and L. O., as sureties, hereby give bail unto the state of Minnesota, in the sum of (two hundred) dollars, for the appearance of said R. F., upon the...day of...., 19.., at....M. of that day, before J. P., a justice of the peace of said county, at his office in the....of...., in said county, to answer to the complaint of J. D., upon oath, that on the....day of...., 19.., at the....of...., in said county, R. F. did (here state the offense as in the complaint). Now, therefore, if the said R. F. shall and does personally appear before the said justice of the peace, at the time and place above mentioned, and from time to time thereafter until discharged by law, and shall not

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depart the said court without leave duly granted, then this recognizance shall be void; otherwise to remain in full force and effect.

R. F.
J. B.
L. O.

Taken and acknowledged before me, this....day of...., A. D. 19..
J. P., Justice of the Peace.

(Justification and approval of sureties, see form 145.)

157.—Criminal Complaint—General Form.

State of Minnesota, }
County of } ss.

The complaint of J. D., of said county, made before J. P. one of the justices of the peace in and for said county, who, being duly sworn, on his oath, says, that on the....day of...., 19.., at the....of...., in said county, R. F. did (here give a complete statement of the offense), against the form of the statute in such case made and provided, and against the peace and dignity of the state of Minnesota and prays that the said R. F. may be arrested and dealt with according to law.

Subscribed and sworn to before me this....day of...., A. D. 19..
J. P., Justice of the Peace.

158.—Warrant—General Form.—(See Form 141 and Sec. 787.)

159.—Recognizance Without Examination, General Form.

State of Minnesota, }
County of } ss.

We, R. F., as principal, and J. B. and L. O., as sureties, acknowledge ourselves to owe and be indebted unto the state of Minnesota, in the sum of (two hundred) dollars, to be levied of our several goods and chattels, lands and tenements, to the use of said state, if default be made in the condition following, to-wit: The condition of this recognizance is such, that whereas, the said R. F. has been arrested in this county by virtue of a warrant issued by J. P., a justice of the peace of the county of...., upon the complaint of J. D....upon oath, charged with having, on the....day of...., 19.., at the....of...., in said county, (here state the offense as charged in the complaint), and whereas, the said R. F. has this day, at his request, been brought before W. J., one of the justices of the peace in and for the county of...., for the purpose of entering into a recognizance without examination upon the said charge.

Now, therefore, if the said R. F. shall personally be and appear before the district court on the first day of the next general term thereof to be held in and for the said county of...., then and there to answer to an indictment to be preferred against him for the above mentioned offense, and to do further and receive what shall by the said court be then and there enjoined upon him, and shall not depart the said court without leave duly granted, then this recognizance to be void; otherwise to remain in full force and effect.

R. F.
L. O.
J. B.

Taken and acknowledged before me, this....day of...., A. D. 19..
J. P., Justice of the Peace.

(Justification and approval of sureties, see form 145.)

160.—Certificate Indorsed on Warrant.

State of Minnesota, }
County of } ss.

I hereby certify, that on this....day of...., 19.., R. F. was, at his own request, brought before me, a justice of the peace in and for said county, by J. M., a constable (or sheriff) of the county of...., by virtue

Law for form 159, see §§ 776, 787, 796. Law for form 160, see § 787. Law for form 161, see §§ 786, 1431.

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of the within warrant, and entered into a recognizance, with sufficient sureties, in the sum of (\$500), for his appearance at the next general term of the district court, to be held in and for the county of....; and that, thereupon, the said R. F. was released from custody.

Dated this....day of...., A. D. 19..

W. J., Justice of the Peace.

161.—Constable's Return to Clerk of Court.

State of Minnesota, }
County of } ss.

I hereby certify that by virtue of the within warrant, I arrested the within named R. F., in the county of...., and at the request of the said R. F., I took him before W. J., one of the justices of the peace in and for the county of...., who thereupon took from the said R. F. a recognizance, with sufficient sureties, for his appearance at the next general term of the district court, to be held in the county of...., and indorsed his certificate of such fact upon the warrant; whereupon I liberated the said R. F., and herewith return said recognizance and warrant, with the certificate indorsed thereon.

Dated this....day of...., A. D. 19..

J. M., Constable.

162.—Venire—Criminal Trial.

State of Minnesota. }
County of } ss.

The state of Minnesota to the sheriff or any constable of said county:

You are hereby commanded to summon (here insert the names in full that remain unstruck on the jury list), to be and appear before the undersigned, one of the justices of the peace in and for said county, on the...day of...., 19.., at....o'clock in the...noon of said day, at my office in the...of...., in said county, to make a jury for the trial of a criminal action, between the state of Minnesota, plaintiff, and R. F., defendant, and have you then and there this writ.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

(For officers' return, see form 60 of this manual.)

163.—Oath to Juries in Criminal Cases.

You each do swear that, without respect of person or favor of any man, you will well and truly try, and true deliverance make, between the state of Minnesota and the defendant, according to law and the evidence given you in court. So help you God.

164.—Oaths of Interpreters and Witnesses in Criminal Cases.

(Use forms 67, 68 and 69 of this manual.)

165.—Oath of Officer Attending Juries.

(Use form 70 of this manual.)

166.—Certificate of Default.

(After making the proper entries in the docket of all the proceedings had in the action, from the making of the complaint to the adjournment, the facts of the adjournment; and the taking of the recognizance; and the further fact, that the action being called, defendant did not answer nor appear at the time and place specified therein, but that such recognizance was defaulted; then make a full transcript therefrom, and, adding the following certificate thereto, transmit the recognizance, transcript and certificate to the district court of the county):

State of Minnesota, }
County of } ss.

I, J. P., a justice of the peace in and for said county, hereby certify, that I have compared the foregoing with the docket entries made in this

Law for form 166, see §§ 786, 827, 1461.

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action, and that the same is a correct transcript therefrom, and that inclosed herewith is the recognizance which has been defaulted.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

167.—Commitment Before Examination.

State of Minnesota, }
County of } ss.

The state of Minnesota to the sheriff or any constable, and to the keeper of the common jail of said county:

You are hereby commanded to receive into your custody in the said jail, and there safely keep R. F., who is charged before me, one of the justices of the peace in and for said county, upon the complaint of J. D., with having, on the....day of...., 19.., at the....of...., in said county, (here state the offense charged in the complaint), and is committed for further examination, to be held before me, on the....day of...., 19.., at....o'clock in the....noon of said day, at my office in the....of...., in said county.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

(Jailer and Constable returns, see forms 150, 151.)

168.—Order to Bring Up Prisoner.

State of Minnesota, }
County of } ss.

The state of Minnesota, to the sheriff or the keeper of the common jail of said county:

The undersigned, one of the justices of the peace in and for said county, sitting as a court for the trial of R. F., now in your custody in the common jail of said county, do hereby order you to bring the said R. F. forthwith before me, at my office in the....of...., in said county, together with the warrant by which he was committed to your custody, in order that he may be tried.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

169.—Officer's Return to Order.

State of Minnesota, }
County of } ss.

I hereby certify and return, that by virtue of the within order, I have the within named R. F. now before the court, together with the warrant by which he was committed to my custody.

Dated this....day of...., 19..

Fees—Mileage, 2 miles - - - \$.20

Bringing up prisoner - - - .25

Total - - - - - \$.45

S. P., Sheriff.

170.—Summons for Witness.

State of Minnesota, }
County of } ss.

The state of Minnesota to the sheriff or any constable of said county:

Whereas, J. D. has complained in writing to me, on oath, that on theday of...., 19.., at the....of...., in said county, R. F. did (here state the offense as in the complaint); and A. B. and E. F. are deemed material witnesses, to be examined concerning the same, on the part of the state (defendant); now, therefore, you are commanded to summon

Note to form 170.—Personal service is necessary. When used to summon witnesses to a trial (instead of an examination), substitute the word "state" for prosecution and "defendant" for accused, in the above form.
Law for form 170, see § 829. Law for form 173, see §§ 796, 1458.

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the said A. B. and E. F. to be and appear before the undersigned, one of the justices of the peace in and for said county, at his office in theof...., in said county, on the....day of...., 19.., at....o'clock in the....noon of said day (or forthwith), to give evidence and to testify the truth concerning the premises.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

171.—Officer's Return on Summons to Witness.

State of Minnesota, }
County of } ss.

I hereby certify and return, that on the....day of...., 19.., I served the within summons, upon the within named witnesses personally, by exhibiting and reading the same to each of them.

(Fees, see form 42.)

J. N., Constable.

172.—Testimony of Witnesses.

State of Minnesota, }
County of } ss.

In Justice Court,
Before J. P., Justice of the Peace.

The State of Minnesota, plaintiff,
against

R. F., defendant.

The testimony of witnesses examined on oath, before me, J. P., a justice of the peace in and for said county, on the....day of...., 19.., upon the complaint of J. D., on oath before me, charging R. F. with having (state the offense as in the warrant.)

The said R. F., having been arrested and brought before me, to answer to said charge, the said J. D., being first duly sworn, in the presence and hearing of the said R. F., on oath, says: (write out the testimony and have it signed by the witness, and then that of each witness in the same manner.)

Taken before me and reduced to writing by me (or T. M., under my direction), the day and year herein before given.

J. P., Justice of the Peace.

173.—Recognizance to Appear at District Court.

State of Minnesota, }
County of } ss.

We, R. F., as principal, and J. B. and L. O., as sureties, acknowledge ourselves to owe and be indebted unto the state of Minnesota, in the sum of (two hundred) dollars, to be levied of our several goods and chattels, lands and tenements, to the use of said state, if default be made in the condition following, to-wit: The condition of this recognizance is such, that whereas, the said R. F. was on the....day of...., 19.., brought before J. P., one of the justices of the peace in and for said county, charged, upon the oath of J. D. with having, on the....day of...., 19.., at the....of...., in said county, (here state the offense as in the complaint); and, whereas, it appeared to the said justice, from an examination of said J. D., and other witnesses, upon oath, in the presence of the said R. F., in regard to the offense thus charged, and from an examination of the whole matter, that the said offense had been committed, and that there was probable cause to believe the said R. F. to be guilty thereof; Now, therefore, if the said R. F. shall personally be and appear before the district court on the first day of the next general term thereof to be held in and for the said county of...., then and there to answer to an indictment to be preferred against him for the above mentioned offense, and to do further and receive what shall by the said court be then and there enjoined upon him, and shall not

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depart the said court without leave duly granted, then this recognizance shall be void; otherwise to remain in full force and effect.

R. F.
L. O.
J. B.

Taken and acknowledged before me, this....day of...., A. D. 19..
J. P., Justice of the Peace.

(Justification and approval of sureties, see form 145.)

174.—Recognizance of Witnesses to Appear at District Court.

State of Minnesota, }
County of } ss.

We, R. F., as principal, and J. B. and L. O., as sureties, acknowledge ourselves to owe and be indebted unto the state of Minnesota, in the sum of (two hundred) dollars, to be levied of our several goods and chattels, lands and tenements, to the use of said state, if default be made in the condition following, to-wit: The condition of this recognizance is such, that if the said R. F., shall personally be and appear before the district court on the first day of the next general term thereof, to be held in and for the said county of...., to give evidence in behalf of the state of Minnesota against R. F., charged upon the oath of J. D. with having, on the....day of...., 19., at the....of...., in said county (here state the offense as in the complaint) as well to the grand jury as to the petit jury, and further do and receive what shall by the said court be then and there enjoined upon him, and shall not depart the said court without leave duly granted, then this recognizance shall be void; otherwise to remain in full force and effect.

R. F.
J. B.
L. O.

Taken and acknowledged before me this....day of...., A. D. 19..
J. P., Justice of the Peace.

(Justification and approval of sureties, see form 145.)

175.—Commitment After Examination.

State of Minnesota, }
County of } ss.

The state of Minnesota to the sheriff or any constable, and to the keeper of the common jail of said county:

Whereas, R. F. was on the....day of...., 19., brought before J. P., one of the justices of the peace in and for said county, charged upon the oath of J. D., with having, on the....day of...., 19., at the....of...., in said county (here state the offense as in the complaint); and whereas, it appeared to the said justice from an examination of said J. D. and other witnesses, upon oath, in the presence of the said R. F., in regard to the offense thus charged, and from an examination of the whole matter, that the said offense had been committed, and there was probable cause to believe the said R. F. to be guilty thereof; and whereas, the said R. F. was thereupon required to enter into a recognizance, with (two) good and sufficient sureties, in the sum of (five hundred) dollars, for his appearance at the next general term of the district court, to be held in and for the said county of....; and whereas, the said R. F. has not offered sufficient bail for his appearance to answer for said offense; therefore, you, the said constable, are commanded forthwith to convey and deliver into the custody of the said keeper, the body of the said R. F.; and you, the said keeper, are hereby commanded to receive the said R. F. into your custody, in the said jail, and him there safely keep until he shall be thence discharged by due course of law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

(Jailer and Constable returns, see forms 150, 151.)

Law for form 174, see §§ 1473, 1436. Law for form 176, see § 1474.

176.—Commitment of Witness.

State of Minnesota, }
County of } ss.

The state of Minnesota to the sheriff or any constable, and to the keeper of the common jail of said county:

Whereas, upon an examination of R. F., charged with the crime of (murder), before...., one of the justices of the peace in and for said county, on the....day of...., 19.., the said R. F. was held to appear and answer to the said charge at the next general term of the district court, to be held in and for the said county of...; and, whereas, R. R., a witness who appeared and testified against the said R. F. upon the said examination, was deemed to be a material witness against the said R. F., and was required to enter into a recognizance (with two sureties) in the sum of...dollars, to appear and testify against the said R. F., at said term of court; and, whereas, the said R. R. has failed to give such recognizance as so required; therefore, you, the said constable, are commanded forthwith to convey and deliver the said R. F. to the said keeper; and you, the said keeper, are hereby commanded to receive the said R. F. into your custody, in the said jail, and him there safely keep until he shall be thence discharged by due course of law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

(Jailer's and Constable's returns, see form 150, 151.)

177.—Certified Return of Criminal Examination.

State of Minnesota, } In Justice Court,
County of } ss. Before J. P., Justice of the Peace.
The State of Minnesota, plaintiff,
against
R. F., defendant.

To the district court of...County, Minnesota:

The defendant in the above entitled action having had a preliminary examination before me, and having been held to answer the charge therein preferred against him, at the next term of the district court, I hereby make return of the proceedings had before me therein, pursuant to the statute, as appears from my docket, viz.: (Then copy from the docket carefully all docket entries and everything pertaining to said cause, attach all the papers in the case together with the testimony of witnesses and add the following certificate).

State of Minnesota, }
County of } ss.

I hereby certify that I have compared the foregoing with the original entries in my docket, and that the same is a full and correct transcript therefrom, and of all the proceedings had before me in said action; that the complaint, warrant, commitments, testimony and examination of witnesses, and all recognizances taken by me, together with all process and other papers relating to the action, and filed with me, or had before me therein, are herewith returned and attached, and numbered from (one) to (nine) inclusive; and that, together with the foregoing transcript, they contain a full, correct and complete statement of all the proceedings had before me in this action.

Given under my hand this day of, A. D. 19...

J. P., Justice of the Peace.

178.—Recognizance Upon Appeal.

State of Minnesota, }
County of } ss.

We, R. F., as principal, and J. B. and L. O., as sureties, acknowledge ourselves to owe and be indebted unto the state of Minnesota in the sum of (two hundred) dollars, to be levied of our several goods and chattels, lands and tenements, to the use of said state, if default be made in the condition following, to-wit:

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The condition of this recognizance is such, that whereas, at a justice court held at the office of J. P., a justice of the peace in and for said county, for the trial of R. F., for the offense hereinafter stated, the said R. F. was convicted of having, on the day of, 19.., in said county (here state the offense as in the complaint), and upon conviction the said court did adjudge and determine, that the said R. F. should pay a fine of \$.... and the costs of prosecution taxed at \$.... and in default of payment of said fine and costs, be imprisoned in the common jail of said county for (thirty) days; and whereas, said R. F. desires to appeal from said judgment.

Now, therefore, if the said R. F. shall personally be and appear before the district court, on the first day of the next general term thereof, to be held in and for the said county of . . . , and abide the judgment of said court therein, and in the meantime keep the peace and be of good behavior, and shall not depart the said court without leave duly granted, then this recognizance shall be void; otherwise to remain in full force and effect.

R. F.

Taken and acknowledged before me this . . . day of . . . , A. D. 19. . .
J. P., Justice of the Peace.
(For justification and approval of sureties, see form 145.)

179.—Justice's Criminal Report.

State of Minnesota, } ss.
County of }

To the County Attorney of said County:

I hereby certify and report that the following is a true statement of the criminal cases begun and prosecuted before me and the disposition thereof:

Title of cause.	Nature of accusation.	Date when prosecution was begun.	Date of trial or examination.	Result of trial or examination.	Nature and extent of punishment.	Whether under influence of intoxicating liquors.	Amount of fine.	A'm't of costs as taxed.	Amount costs paid by the State.	Am't fine and costs paid by defendant.	Remarks.
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Given under my hand this day of, A. D. 19...

J. P., Justice of the Peace.

180.—Bond to Stay Execution for Fine.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
The State of Minnesota, plaintiff,
against

R. F., defendant,

Know all men by these presents, that we, R. F., defendant in the above entitled action, and J. B. and L. O., as sureties, acknowledge our-

Note to form 179.—Justices should promptly make this report in accordance with § 825 to the county attorney so that he may enter in his register of criminal actions, "the title of all criminal causes conducted, prosecuted, or so reported to him; the date when such examination or prosecution was begun; the date of the finding of an indictment, or the filing of a criminal appeal in such court; the nature of the criminal accusation against the defendant; the result of such examination, prosecution, or trial; if convicted, the nature and extent of the punishment inflicted, and whether the crime charged was committed under the influence of intoxicating liquors." Also the amount of costs taxed therein, the amount of fines, if any, imposed, and the amount paid thereon.

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selves to owe and be indebted unto the state of Minnesota, in the sum of (double the amount of the fine and costs) dollars, lawful money of the United States, to be paid unto the said state or assigns; for which payment well and truly to be made, we jointly and severally bind ourselves and each of our heirs, executors and administrators, firmly by these presents. Sealed with our seals and dated this day of, 19...

The condition of this obligation is such that, whereas, at a justice's court held before J. P., a justice of the peace in and for the said county, the said R. F. was convicted of having, on the day of, 19..., in said county (state the offense as in the complaint), and upon conviction, the said court did adjudge and determine that the said R. F. should pay a fine of (fifty) dollars, and the costs of prosecution taxed at (ten) dollars, and whereas, the said R. F. desires a stay of execution upon such judgment for (thirty) days; now, therefore, if the said R. F. shall pay or cause to be paid the amount of such judgment and costs at the expiration of (thirty) days from the date thereof, then this obligation to be void; otherwise execution may issue on said judgment according to law.

In testimony whereof, we have hereunto set our hands and seals this day of, A. D. 19...

Signed, sealed and delivered in presence of:

J. W.

O. W.

R. F. (Seal)

J. B. (Seal)

L. O. (Seal)

(Acknowledgment, justification of sureties and approval, see forms 4, 5 and 6.)

181.—Execution for Fine.

State of Minnesota, }
County of } ss.

The State of Minnesota, to the Sheriff or any Constable of said County:

Whereas, at a justice court held at my office, in said county, for the trial of R. F., for the offense hereinafter stated, the said R. F. was convicted of having on the....day of...., 19..., in said county (here state the offense as in the complaint), and, upon conviction, the said court did adjudge and determine that the said R. F. should pay a fine of (ten) dollars and costs of prosecution taxed at..dollars; and whereas, the payment of said fine and costs having been defaulted. These are, therefore to command you to levy distress on the personal property of the said R. F. (except such as the law exempts) and make sale thereof, according to law in such case made and provided, to the amount of the said sum, together with twenty-five cents for this execution, and the same return to me within thirty days, to the use of said county. Hereof fail not under penalty of law.

Given under my hand this day of, A. D. 19...

J. P., Justice of the Peace.

182.—Execution Against Complainant for Costs.

State of Minnesota, }
County of } ss.

The State of Minnesota, to the Sheriff or any Constable of said County:

Whereas, at a justice's court held at my office, in said county, for the trial of R. F., for the offense hereinafter stated, the said R. F. was charged on the oath of J. D. with having, on the....day of...., 19..., at the....of...., in said county (here state the offense as in the complaint), the said R. F. was acquitted; whereupon I certified in my docket that the complaint was willful and malicious and without probable cause, and entered judgment against the complainant, J. D., for the costs that had accrued to the court, constable and jury, and the fees of witnesses in the proceedings had upon such complaint, amounting in all to (ten) dollars; and, whereas, the payment of said costs having been defaulted. These are, therefore to command you to levy distress on the personal

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property of the said J. D. (except such as the law exempts) and make sale thereof, according to law in such case made and provided, to the amount of the said sum, together with twenty-five cents for this execution, and the same return to me within thirty days, to the use of county. Hereof fail not under penalty of law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

183.—Certificate of Conviction.

State of Minnesota, }
County of } ss.

At a justice court held at my office, in said county, before me, J. P., a justice of the peace in and for said county, for the trial of R. F. for the offense hereinafter stated, the said R. F. was convicted of having, on the day of, 19.., at the of, in said county (here state the offense as in the complaint); and upon such conviction, the said court did adjudge and determine, that the said R. F. should pay a fine of (ten) dollars, and the costs of prosecution, taxed at dollars (and in default of the payment of said fine and costs ... be imprisoned in the common jail of said county for (fifteen) days, and the said fine has been (defaulted) paid to me.

Given under my hand this day of, A. D. 19..

J. P., Justice of the Peace.

184.—Commitment Where Justice, on the Trial, Finds He Has Not Jurisdiction.

State of Minnesota, }
County of } ss.

The State of Minnesota, to the Sheriff or any Constable of said County:

Whereas, R. F., of, has been brought this day before the undersigned, one of the justices of the peace of said county, charged on the oath of with having on the day of, 19.., at the of, in said county, committed the offense of (here state the offense as in the complaint), and, in the progress of the trial on said charge, it appearing to the said justice that there is probable cause to believe that said R. F. had been guilty of the offense of (here state the new offense found on the trial), committed at the time and place aforesaid, of which offense the said justice has not final jurisdiction: and whereas, after examination had, in due form of law, touching the said charge and offense last aforesaid, the said justice did adjudge that the said offense had been committed, and that there was probable cause to believe the said R. F. to be guilty thereof; and whereas the said R. F. has not offered sufficient bail for his appearance to answer for said offense, you are therefore commanded forthwith to take the said R. F., and him convey to the common jail of said county, the keeper whereof is hereby required to detain him in custody in said jail until he shall be thence discharged according to law.

Given under my hand this day of, A. D. 19..

J. P., Justice of the Peace.

185.—Criminal Complaint for Village.

State of Minnesota, }
County of } ss.

The complaint of J. D., made before J. P., a village justice of the peace of the village of, in said county, who being duly sworn, on his oath says, that on the day of, 19.., at the village of and within the corporate limits thereof, in said county, R. F. did (here state the offense as in the complaint), contrary to an ordinance of said village, entitled "An ordinance (here state the ordinance) adopted, 19... and the amendments thereto, and against the form of the statute

Law for form 184, see § 828.

in such case made and provided, and against the peace and dignity of the state of Minnesota, and prays that the said R. F. may be arrested and dealt with according to law.

Subscribed and sworn to before me, this day of, A. D. 19...
J. P., Justice of the Peace.

186.—Criminal Warrant for Village.

State of Minnesota, }
County of } ss.

The Village of, to the Village Marshal or the Sheriff or any Constable of said County:

Whereas, J. B. has this day complained in writing to me, on oath, that on the day of, 19.., at the village of and within the corporate limits thereof, in said county, R. F. did (here state the offense as in the complaint), contrary to an ordinance of said village, entitled "An ordinance (here state the ordinance) adopted, 19.., and the amendments thereto, and against the form of the statute in such case made and provided, and against the peace and dignity of the state of Minnesota, and prayed that the said R. F. might be arrested and dealt with according to law. Now, therefore, you are commanded forthwith to apprehend the said R. F., and bring him before me, to be dealt with according to law.

Given under my hand this....day, A. D. 19..
J. P., Justice of the Peace.

(Officer's return and fees, see 143.)

187.—Criminal Recognizance Upon Continuance—Village.

State of Minnesota, }
County of } ss.

We, R. F., as principal, and J. B. and L. O., as sureties, hereby give bail unto the village of, in the sum of....dollars, for the appearance of said R. F. upon the...day of, 19.., at....M. of that day before J. P., a village justice of the peace of the village of, in said county, at his office in the of, in said county, to answer to the complaint of J. D. upon oath, that on the ... day of, 19.., at the village of, and within the corporate limits thereof, in said county, R. F. did (here state the offense as in the complaint). Now, therefore, if the said R. F. shall and does personally appear before the said justice of the peace, at the time and place above mentioned, and from time to time thereafter until discharged by law, and shall not depart the said court without leave duly granted, then this recognizance shall be void; otherwise to remain in full force and effect.

R. F.
J. B.
L. O.

Taken and acknowledged before me, this day of, A. D. 19...
J. P., Justice of the Peace.
(Justification and approval of sureties, see form 145.)

188.—Commitment on Adjournment for Village.

State of Minnesota, }
County of } ss.

The Village of, to the Village Marshal or the Sheriff or any Constable of said County, and to the Keeper of the Common Jail of said County:

Whereas, R. F. has been this day brought before the undersigned, a village justice of the peace of the village of, in said county, charged on the oath of J. D., with having, on the day of, 19.., at the village of, and within the corporate limits thereof, in said county (here state the offense as in the complaint), contrary to an ordinance of said village, entitled "An ordinance (here state the ordinance), adopted

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...., 19.., and the amendments thereto," and the said R. F. not having given bail to appear and answer for the said offense. Therefore, you, the said (insert village marshal, constable, sheriff, as the officer may be), are commanded forthwith to convey and deliver into the custody of the said keeper the body of the said R. F., and you, the said keepr, are hereby commanded to receive the said R. F. into your custody in the said jail, and him there safely keep until he shall be required to be brought before the court to be tried, or shall be otherwise discharged by due course of law.

Given under my hand this day of, A. D. 19...

J. P., Justice of the Peace.

State of Minnesota, }
County of } ss.

I hereby certify that I have this day received into my custody the within named R. F., and have lodged him in the common jail of said county, as within commanded. Dated this....day of, 19..

E. P., Sheriff, or G. S., Deputy.

State of Minnesota, }
County of } ss.

I hereby certify and return, that by virtue of the within warrant, I have delivered the within named R. F. to the keeper of the common jail of the said county, as appears by his certificate indorsed herein.

Dated this day of, 19...

Fees—Mileage, 2 miles - - - \$.20

Committing to prison - - - .50

Total - - - - - \$.70

J. M., Constable.

189.—Commitment Upon Sentence for Village.

State of Minnesota, }
County of } ss.

The Village of, to the Village Marshal or the Sheriff or any Constable, and to the Keeper of the Common Jail of said County:

Whereas, at a justice court held at my office in the village of....in said county, for the trial of R. F. for the offense hereinafter stated, the said R. F. was convicted of having, on the....day of, 19.., at the village of and within the corporate limits thereof, in said county (here state the offense as in the complaint), contrary to an ordinance of said village, entitled "An ordinance (here state the ordinance), adopted, 19.., and the amendments thereto, and upon conviction the said court did adjudge and determine, that the said R. F. should be imprisoned in the common jail of said county for (thirty) days; therefore, you, the said (insert village marshal, constable, sheriff, as the officer may be), are commanded forthwith to convey and deliver the said R. F. to the said keeper; and you, the said keeper, are hereby commanded to receive the said R. F. into your custody, in the said jail, and him there safely keep until the expiration of said (thirty) days, or until he shall be thence discharged by due course of law.

Given under my hand this day of, A. D. 19...

J. P., Justice of the Peace.

State of Minnesota, }
County of } ss.

I hereby certify that I have this day received into my custody the within named R. F., and have lodged him in the common jail of said county, as within commanded. Dated this day of, 19...

S. P., Sheriff, by G. S., Deputy.

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State of Minnesota, }
County of } ss.

I hereby certify and return that by virtue of the within warrant, I have delivered the within named R. F. to the keeper of the common jail of said county, as appears by his certificate indorsed hereon.

Dated this day of, 19...
Fees—Mileage, 2 miles - - - \$.20
Committing to prison - - - .50
Total - - - - - \$.70

J. M., Constable.

190.—Commitment Upon Sentence for Village, Fine Not Paid.

State of Minnesota, }
County of } ss.

The Village of, to the Village Marshal or the Sheriff or any Constable, and to the Keeper of the Common Jail of said County:

Whereas, at a justice court, held at my office in the village of, in said county, for the trial of R. F. for the offense hereinafter stated, the said R. F. was convicted of having, on the day of, 19..., at the village of, and within the corporate limits thereof, in said county (here state the offense as in the complaint), contrary to an ordinance of said village, entitled "An ordinance (here state the ordinance), adopted...., 19..., and amendments thereto, and upon conviction the said court did adjudge and determine, that the said R. F. should pay a fine of (\$10) and the costs of prosecution taxed at (\$4.50), and in default of payment of said fine and costs, be imprisoned in the common jail of said county for (thirty) days; therefore, the payment of said fine and costs having been defaulted, you, the said (insert village marshal, constable, sheriff, as the officer may be), are commanded forthwith to convey and deliver the said R. F. to the said keeper; and you, the said keeper, are hereby commanded to receive the said R. F. into your custody, in the said jail, and him there safely keep until the expiration of said (thirty) days, or until he shall be thence discharged by due course of law.

Given under my hand this day of, A. D. 19...

J. P., Justice of the Peace.

State of Minnesota, }
County of } ss.

I hereby certify that I have this day received into my custody the within named R. F., and have lodged him in the common jail of said county, as within commanded. Dated this day of, 19...

S. P., Sheriff, by G. S., Deputy.

State of Minnesota, }
County of } ss.

I hereby certify and return that by virtue of the within warrant, I have delivered the within named R. F., to the keeper of the common jail of said county, as appears by his certificate indorsed hereon.

Dated this day of, 19...
Fees—Mileage, 2 miles - - - \$.20
Committing to prison - - - .50
Total - - - - - \$.70

J. M., Constable.

191.—Recognizance Upon Appeal for Village.

State of Minnesota, }
County of } ss.

We, R. F., as principal, and J. B. and L. O., as sureties, acknowledge ourselves to owe and be indebted to the village of in the sum of dollars, to be levied of our several goods and chattels, lands and tenements, to the use of said village, if default be made in the condition fol-

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lowing, to-wit: The condition of this recognizance is such, that whereas, at a justice court held at the office of J. P., a village justice of the peace of the village of . . . , in said county, for the trial of R. F., for the offense hereinafter stated, the said R. F. was convicted of having, on the . . . day of . . . , 19. . . , at the village of . . . and within the corporate limits thereof, in said county (here state the offense as in the complaint), and upon conviction the said court did adjudge and determine, that the said R. F. should pay a fine of \$. . . and the costs of prosecution taxed at \$. . . , and in default of payment of said fine and costs, be imprisoned in the common jail of said county for (thirty) days; and whereas, said R. F. desires to appeal from said judgment.

Now, therefore, if the said R. F. shall personally be and appear before the district court, on the first day of the next general term thereof to be held in and for the said county of . . . , and abide the judgment of the said court therein, and in the meantime keep the peace and be of good behavior, and shall not depart the said court without leave duly granted, then this recognizance shall be void; otherwise to remain in full force and effect.

R. F.
J. B.
L. O.

Taken and acknowledged before me this . . . day of . . . , A. D. 19. . .
J. P., Justice of the Peace.
(For justification and approval of sureties, see form 145.)

192.—Justice's Return of Fines for Village.

The Village of..... against	Offense charged	Date when Prosecution was begun			Date of Conviction			Amount of Fine		Amount Paid		When Paid			Remarks
		Month	Day	Year	Month	Day	Year	Dols	Cts	Dols	Cts	Month	Day	Year	

42
22
State of Minnesota, }
County of } ss.

I, J. P., a village justice of the peace of the village of . . . , in said county, being duly sworn, on oath, say, that at a justice court held by and before me, on the dates above specified, the above named defendant(s) were) duly arraigned, tried and convicted of having committed the offenses above specified in the village of . . . , in said county, on the dates above specified, and upon such conviction, I did adjudge and determine that the said defendant(s), convicted as aforesaid, pay fines respectively in the amount above specified, and that said judgment(s) were) duly entered and docketed, and that the sum of (twenty) dollars has been paid to and received by me on account of said fine, as above set forth; and the above statement is a true statement of all fines received by me since my last report to the date hereof.

J. P., Justice of the Peace.

Subscribed and sworn to before me this . . . day of . . . , 19 . . .

J. J., Notary Public,
County, Minnesota.
My Commission expires . . . 19 . . .

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193.—Certificate of Conviction for Village.

State of Minnesota, } ss.
County of }

At a justice court held at my office in the village of . . . , in said county, before me, J. P., a village justice of the peace of the village of . . . , in said county, for the trial of R. F. for the offense hereinafter stated, the said R. F. was convicted of having, on the . . . day of . . . , 19. . , at the village of . . . , and within the corporate limits thereof, in said county (here state the offense as in the complaint) and upon such conviction, the said court did adjudge and determine, that the said R. F. should pay a fine of (ten) dollars, and the costs of prosecution, taxed at . . . dollars, (and in default of the payment of said fine and costs—to be imprisoned in the common jail of said county for (fifteen) days, and the said fine has been (defaulted) paid to me.

Given under my hand this . . . day of . . . , A. D. 19. .

J. P., Justice of the Peace.

194.—Warrant for Criminal Contempt.

State of Minnesota, } ss.
County of }

The state of Minnesota to the sheriff or any constable of said county:

You are hereby commanded to apprehend A. B. and bring him before J. P., one of the justices of the peace of said county, at his office in the . . . of . . . , in said county, to show cause why he, the said A. B., should not be convicted of a criminal contempt, alleged to have been committed on the . . . day of . . . , 19. . , before the said justice, while engaged as a justice of the peace in judicial proceedings.

Given under my hand this . . . day of . . . , A. D. 19. .

J. P., Justice of the Peace.

195.—Record of Conviction for Contempt.

State of Minnesota, } ss.
County of }

In Justice Court,
Before J. P., Justice of the Peace.

The State of Minnesota, plaintiff,
against

R. F., defendant.

Whereas, on the . . . day of . . . , 19. . , while we, the undersigned, one of the justices of the peace of the said county, was engaged in the trial of a cause between W. M., plaintiff, and R. R., defendant (or the examination of R. F. upon the charge of (state the offense), in said county, according to the statute in such case made and provided, A. B., of the said county, did interrupt the said proceedings, and impair the respect due to the authority of the undersigned, by (here describe the cause particularly); and, whereas, the said A. B. was thereupon required by the undersigned to answer for the said contempt, and show cause why he should not be convicted thereof; and, whereas, the said A. B. did not show any cause against the said charge: Be it, therefore, remembered,

Note to form 193.—Every justice of the peace is required, within twenty days after the conviction of any person charged with crime before him, to certify the same to the clerk of the district court of said county, and shall, within said twenty days, pay the fine, if any, received by him, to the county treasurer: failing to do either of which, said justice shall be deemed guilty of a misdemeanor. §§ 834, 824, 1476, 1477.

For the making of such certificate the justice is entitled to twenty-five cents.

Note to form 194.—No warrant is necessary if the offender is present in court, in which case, whether his offense be for acts tending to disturb or interrupt the judicial proceedings of the justice or impair the respect due to his authority, or he has been brought into court by attachment for not attending as a witness when duly subpoenaed, or as a defaulting juror when duly summoned, he may be summarily arraigned by the justice and convicted and punished according to the statute. (See §§ 431 to 437 inclusive, and forms Nos. 45, 61.) After conviction the justice must make a record of conviction as in the next form and file it with the clerk of the district court, and also enter the same at length in his docket.

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that the said A. B. is adjudged to be guilty, and is convicted of the criminal contempt aforesaid before the undersigned, and is adjudged by the undersigned to pay a fine of (ten) dollars, or to be imprisoned in the common jail of said county for the term of (two) days, or until he is discharged from imprisonment according to law.

Dated this....day of...., A. D. 19.. J. P., Justice of the Peace.

196.—Commitment for Contempt.

State of Minnesota, } ss.
County of }

The state of Minnesota to any constable and to the keeper of the common jail of said county:

Whereas, at a justice court on the....day of...., 19.., in the trial of a cause before the undersigned, one of the justices of the peace of said county, between W. M., plaintiff, and R. R., defendant, one A. B., of said county, did interrupt the said proceedings, and impair the respect due to the authority of the undersigned, by (here describe the cause particularly); and whereas, the said A. B. was thereupon required, by the undersigned, to answer for the said contempt, and show cause why he should not be convicted thereof; and, whereas, the said A. B. did not show any cause against the said charge, and was thereupon adjudged to be guilty, and was convicted of a criminal contempt as aforesaid, and adjudged by the undersigned to pay a fine of (ten) dollars or to be imprisoned in the common jail of said county for the term of (two) days; Therefore, the payment of said fine having been defaulted, you, the said constable, are commanded forthwith to convey and deliver the said A. B. to the said keeper; and you, the said keeper, are hereby commanded to receive the said A. B. into your custody in the said jail, and him there safely keep until the expiration of said (two) days, or until he shall be thence discharged by due course of law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

197.—Commitment of Contemptuous Witness.

State of Minnesota, } ss.
County of }

The state of Minnesota to any constable and to the keeper of the common jail of said county:

Whereas, on the trial of a cause (or on an examination) this day before the undersigned, one of the justices of the peace in and for said county, between A. B., plaintiff, and C. D., defendant, E. F. being called as a witness on the part of the said plaintiff (or defendant), and being present, refused to be sworn as such witness, in any form prescribed by law; (or E. F. was called and sworn as a witness on the part of the said (plaintiff), and on his examination as such witness the said E. F. was asked the following pertinent and proper question: "Whether he was acquainted with the handwriting of C. D?" to which question the said E. F. refused to make any answer.

Therefore, you, the said constable, are commanded forthwith to convey and deliver into the custody of the said keeper the body of the said E. F., and you, the said keeper are hereby commanded to receive the said E. F. into your custody in the said jail, and him there safely keep until he shall submit to be sworn as such witness as aforesaid (or to answer such questions) or shall be otherwise discharged by due course of law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

Law for form 196, see § 435. Law for form 197, see §§ 432, 435.

Note to form 197.—Whenever, after commitment, the witness expresses his willingness to be sworn and submit to examination as a witness, he can be ordered to be brought before the court for that purpose. (Use form 168 modified for this purpose.)

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198.—Complaint for Search Warrant.

State of Minnesota, } ss.
County of

The complaint of J. D., of said county, made before J. P., one of the justices of the peace in and for said county, who, being duly sworn, on his oath, says, that on the....day of...., 19.., at the...of...., in said county, certain personal property, viz: (give description of property) the property of J. D. and of the value of....dollars, was unlawfully and feloniously stolen, taken and carried away....and that the said J. D. has good reason to believe and does believe, that the said personal property is concealed in the...of one R. F., situated in the...of...., in said county, viz:.... against the form of the statute in such case made and provided, and against the peace and dignity of the state of Minnesota, and prays that a warrant may issue to make search for said personal property according to the statute in such case made and provided.

J. D.

Subscribed and sworn to before me, this.... day of...., A. D. 19..

J. P., Justice of the Peace.

199.—Search Warrant.

State of Minnesota, } ss.
County of

The state of Minnesota, to the sheriff or any constable of said county:

Whereas, J. D. has this day complained in writing to me, on oath, that on the....day of...., 19.., at the...of...., in said county, certain personal property, viz: (describe property) the property of J. D. and of the value of....dollars, was unlawfully and feloniously stolen, taken and carried away....and that the said J. D. has good reason to believe and does believe, that the said personal property is concealed in the...of one R. F., situated in the...of...., in said county, viz:....against the form of the statute in such case made and provided, and against the peace and dignity of the state of Minnesota, and prayed that a warrant might issue to make search for the said personal property in said.... of the said R. F. according to the statute in such case made and provided; and being satisfied that there is reasonable cause for such belief of said complainant;

Now, therefore, you are commanded forthwith to enter the...of one R. F., situated in the...of...., in said county, viz:..... and there make search for the above described property, and if the same, or any part thereof, shall there be found, you are hereby commanded to bring the same, together with the person in whose possession the same may be found, before me to be dealt with according to law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

200.—Return of Constable to Search Warrant.

State of Minnesota, } ss.
County of

I hereby certify that by virtue of the within warrant I have diligently searched the within described premises and (here insert description of property discovered and return of officer upon warrant as in form 143 in case arrest is made).

Dated...., 19..

J. M., Constable.

Law for form 199, see §§ 1418, 1419.

TITLE IV.—MISCELLANEOUS JUSTICES' FORMS UNDER VARIOUS STATUTES.

201.—Certificate of Acknowledgment—Statute Form.

State of Minnesota, }
County of } ss.

On this....day of...., A. D. 19.., before me, personally appeared R. W. (and S. W., his wife), to me known to be the person(s) described in, and who executed, the foregoing instrument, and acknowledged that (they) executed same as (their) free act and deed.

J. P., Justice of the Peace.

202.—Certificate of Acknowledgment—Single Person.

State of Minnesota, }
County of } ss.

On this....day of...., A. D. 19.., before me personally appeared A. B., a single man (or woman) to me known to be the person described in, and who executed, the foregoing instrument, and acknowledged that (s)he executed the same as his (her) free act and deed.

J. P., Justice of the Peace.

203.—Acknowledgment By Power of Attorney.

(After the attorney in fact has signed and sealed the names of his principals in the presence of two subscribing witnesses, then sign his own underneath, thus: "By his (their) attorney in fact, J. M.," and the acknowledging officer make his certificate as follows):

State of Minnesota, }
County of } ss.

On this....day of...., A. D. 19.., before me, personally appeared J. M., to me known to be the person who executed the foregoing instrument, in behalf of R. W. (and S. W., his wife), and acknowledged that he executed the same as the free act and deed of said R. W. (and S. W., his wife).

J. P., Justice of the Peace.

204.—Acknowledgment By Corporation or Association.

State of Minnesota, }
County of } ss.

On this....day of...., A. D. 19.., before me appeared J. S. and J. D., to me personally known, who, being each by me duly sworn (or affirmed), did say, that they are respectively the president (or, other officer) and the secretary (or, other officer) of the (Smith Manufacturing Company), that the seal affixed to the foregoing instrument is the corporate seal of said corporation (or association), and that said instrument was executed in behalf of said corporation (or association) by authority of its board of directors (or trustees) and said J. S. and J. D. acknowledged said instrument to be the free act and deed of said corporation (or association).

J. P., Justice of the Peace.

205.—Certificate of Authentication to Acknowledgment.

State of Minnesota, }
County of } ss.

District Court,
(Third) Judicial District.

I, J. W., clerk of the district court for the (third) judicial district and county aforesaid, the same being a court of record, do hereby certify that J. P., Esq., before whom the annexed instrument was acknowledged, was, at the time of taking such proof or acknowledgment, a (justice of the peace) in and for said county of...., state of Minnesota, and sworn, and duly authorized to take the same; that I am well acquainted with

Note to form 202.—When the grantor in a deed, or the mortgagor in a mortgage, is a single person, he or she should be described in the body of the deed or mortgage as either a widower or widow, or a divorced person, or an unmarried person. And the acknowledgment, also, should conform to form 203 above.

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the handwriting of such officer, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine. I further certify, that said instrument is executed and acknowledged according to the laws of the state of Minnesota.

Witness my hand and seal of said court, at...., in said county, this
....day of...., A. D. 19..

J. W., Clerk of Court.

206.—Certificate of Authentication to Jurat.

State of Minnesota, }
County of } ss.

District Court,
(Third) Judicial District.

I, J. W., clerk of the district court for the (third) judicial district and county aforesaid, the same being a court of record, do hereby certify that J. P., Esq., whose name is subscribed to the jurat for the annexed instrument, was, at the time of taking said oath a (justice of the peace) in and for said county of...., duly qualified and authorized to take the same; that I am well acquainted with the hand writing of such officer, and verily believe that the signature to the said jurat is genuine.

J. W., Clerk of Court.

207.—Subpoena to Subscribing Witnesses.

State of Minnesota, }
County of } ss.

The state of Minnesota to J. K., J. L. and G. G.:

You are hereby required to appear before the undersigned, one of the justices of the peace in and for the said county, at my office in the
....of...., on the....day of...., 19.., at....o'clock in the....noon of
said day, to appear and testify touching the execution of a certain deed purporting to have been executed by E. F. to G. H., on the....day of...., 19..

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

(Officer's return of service and fees, see form 42.)

208.—Oath to Subscribing Witnesses.

"You do swear that you will true answers make to such questions as shall be put to you touching the execution of the deed here shown to you. So help you God."

209.—Certificate of Proof of Deed.

State of Minnesota, }
County of } ss.

Be it known, that on the....day of...., A. D. 19.., personally appeared A. B. (and C. D.), (one of) the subscribing witnesses to the within deed, and made oath before the undersigned, one of the justices of the peace in and for said county, that he (they) saw the within named E. F. voluntarily sign and seal the said deed; and that he (they) the said A. B. (and C. D.) subscribed his (their) name(s) as witness(es) thereto at the same time; which proof was satisfactory. I further certify, that E. F. was duly summoned to appear before me at the time and place of examination, to hear the testimony of the said subscribing witness(es) by an original summons served personally upon him (them) with a true copy of the said deed annexed, by the sheriff (or Z. K., a constable) of said county, on the....day of...., A. D. 19.., and the said E. F. was (or was not) present at such examination.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

210.—Justice's Warrant to Remove Nuisance.

State of Minnesota, }
County of } ss.

The state of Minnesota to the sheriff or any constable of said county:

Whereas, E. L. has this day complained in writing to me on oath, that

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(here insert the substance of the complaint), and prayed that a warrant issue as prescribed by law: Now, therefore, you are commanded to take sufficient aid, and being accompanied by two or more of the board of health of said (town) of...., between the hours of sunrise and sunset, repair to (state place and matter complained of), and the said (nuisance or other matter) destroy (remove or prevent), under direction of the members of the board of health aforesaid.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

211.—Constable's Return.

State of Minnesota, }
County of } ss.

I hereby certify and return, that by virtue of the within warrant, and being accompanied by (two or more) of the board of health of said (town) of...., between the hours of sunrise and sunset, on the....day of...., 19.., repaired to.... and executed the within warrant under the direction of the members of the said board of health, by (state the manner of executing the warrant). Dated...., 19..

(Fees, see form 143.)

J. M., Constable.

212.—Notice to Owner of Beasts Doing Damage.

To C. E. N.:

Sir: Take notice, that on the....day of...., 19.., at my residence (on the east half of the southwest quarter of section....), in the town of...., the following beasts owned by you (describing them and giving their number), were distrained by me for doing damage upon my lands (or lands occupied by me) in the section and town aforesaid, at which place said beasts are now detained by me (or state where they are), and you are further notified that on the....day of...., 19.., at ten o'clock in the forenoon, I will apply to J. P., one of the justices of the peace of this county, at his office, in the....of...., for the appointment of appraisers to appraise the damages done by said beasts. (Dated and signed.)

213.—Application to Justice to Appoint Appraisers.

State of Minnesota, }
County of } ss.

To J. P., a justice of the peace of said town:

The undersigned, H. G., of said town, hereby makes application to you to appoint three disinterested freeholders of said town to appraise the damages done by (four) cows (describing them), upon my lands (or lands occupied by me, describing them); the said cows being distrained by me (a) on the....day of...., 19.., due notice of which was given to the owner thereof less than three days after said distress, and more than 12 hours before the time of this application, and which cows are now kept by me in a secure place (on my premises, on section...., in said town). Dated...., 19..

H. G.

214.—Appointment of Appraisers.

State of Minnesota, }
County of } ss.

To C. S., H. W., and J. R., of said town:

You are hereby appointed appraisers to appraise the damages sustained by H. G., by reason of (four) cows doing damage, on the....day

Law for form 210, see §§ 511, 512, 516.

Note to form 212.—If the owner does not reside in the county or is unknown, the distrainer may apply to the justice without notice within 24 hours after said distress has been made. See § 701.

Note to form 213.—In case the distraining is made in those counties or parts of counties that may by resolution or by-law allow beasts to run at large in the daytime between April 1st and October 15th, the following words should be inserted at (a) in form 213, "doing damage on my said lands in the night time, to-wit: between the hours of eight o'clock in the evening of the....day of...., 19.., and sunrise of the next morning, and" (concluding as in form 213). The same instructions will apply to forms 212, 214 and 216 also. See § 701.

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of...., 19.., upon his lands (or lands occupied by him), (on the east half of the southwest quarter of section....), in said town; and, upon first being duly sworn, you are to immediately repair to the place stated in the annexed application of H. G., and view the damages done, and you may take the evidence of any competent witness of the facts and circumstances necessary to enable you to ascertain the extent of such damage, the insufficiency of any line fence on the premises where the damage was done, if any dispute shall arise touching the same, and for which purpose you are authorized by law to administer an oath to every such witness, and ascertain and certify under your hands the amount of such damage, and the costs of keeping such beasts to that time, with fees for your services, not exceeding one dollar per day.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

215.—Oath to Appraisers.

State of Minnesota, }
County of } ss.

(Indorse upon the order of appointment of appraisers, or attach to it the following): I do swear (or affirm) that I will faithfully and fairly ascertain and appraise the damages sustained by H. G., by beasts doing damage upon his lands on the....day of...., 19.., and make a just and true certificate thereof according to the best of my understanding and ability. So help me God. (Signed by the appraisers.)

Subscribed and sworn to before me this....day of...., 19..

J. P., Justice of the Peace.

216.—Certificate of Appraisers.

State of Minnesota, }
County of } ss.

We, the appraisers duly appointed by J. P., a justice of the peace of said town, to appraise the damages done by (four) cows (describing them), upon the....day of...., 19.., on the lands of H. G. (on the east half of the southwest quarter of section....), in said town, do hereby certify that immediately after our said appointment, upon first being duly sworn, we repaired to the place aforesaid, and after viewing the said damages done on the lands of the said H. G. (and taking the evidence of J. E.), we do hereby certify that the amount of said damage is the sum of

Our fees, (two) days and mileage, - - - - - \$

Total, - - - - - \$

Given under our hands this....day of...., A. D. 19..

(Signed by all the appraisers.)

217.—Sale of Beasts By Poundmaster.

State of Minnesota, }
County of } ss.

Take notice, that on the....day of...., 19.., at the public pound in the town of...., in the county of...., and state of Minnesota, at.... o'clock in the....noon, I will sell at public vendue (describe the beasts), or so many of them as may be necessary, to pay the damages certified to have been done by said beasts on the lands of H. G., upon the....day of...., 19.., and the costs of keeping such beasts after said appraisal, and the fees and costs authorized by law.

Dated...., 19..

A. M., Poundmaster.

Law for forms 217, 218, 219, see §§ 704, 705, 706, 707, 708. Law for form 220, see § 734.

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218.—Sale of Beasts By Sheriff or Constable.

State of Minnesota, }
County of } ss.

Take notice, that on the....day of...., 19.., at (naming the place), in the said town of...., county of...., and state of Minnesota, at.... o'clock in the....noon, I will sell at public vendue (describe the beasts), or so many of them as may be necessary to pay the damages certified to have been done by said beasts, together with the fees and costs authorized by law; subject to redemption by the owner at any time within two months from the day of sale, as provided by law.

Dated...., 19..

J. M., Constable.

219.—Report of Sale of Beasts Doing Damage.

State of Minnesota, }
County of } ss.

I hereby certify and return, that pursuant to the annexed notice, copies of which were duly posted at three of the most public places within said town, at least ten days before the day of sale named therein, I did, on the said....day of...., 19.., at....o'clock....M., at the place in said notice mentioned, sell the said beasts at public vendue to the highest bidder, for the following price, viz., (give the price each sold for, and to whom), making, in all, the sum of \$....; that I have retained the sum of \$.... for my fees, the cost of keeping said beasts, and the charges of such sale; and have paid A. B., the distrainer of said beasts, his damages as certified, with the fees of the appraisers, and of the justice, amounting, in all, to \$....; and the surplus, \$...., I have paid to the (owner of such beasts). (Or, I further certify that no owner of said beasts appeared at the time of such sale, or within one week thereafter, and claimed said surplus, and the same was paid by me to the treasurer of said town.) Dated...., 19..

J. M., Constable.

220.—Form of Estray Notice.

Notice.

Taken up (or found upon lands owned or occupied by me), in the town of...., and county of...., and state of Minnesota, where I reside, one yoke of working oxen about eight years old, of a dark red color, with a white spot in the forehead of each, and the left hind foot of each white; having brass buttons on their horns, and a notch cut out of the right ear of one. They were taken up (or found) about....m.,.... 19.., and are of the value of (forty) dollars each.

Dated...., 19..

P. F.

Residing on Sec., in said town.

221.—Certificate of Appraisal By Justice.

State of Minnesota, }
County of } ss.

Whereas, P. F., a resident of said town, has made application to the undersigned, a justice of the peace of his said town, to appraise one yoke of dark red oxen about eight years old, taken up by him as estrays; Now, therefore, I hereby certify, that having viewed the said oxen, I do appraise them to be of the value of (forty) dollars each.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

Note to form 220.—If owner is unknown, this notice should be filed with the town clerk, who shall transmit a copy thereof to the register of deeds, to be by him recorded in the "estrays book" (follow closely § 734) as to posting notice if value of estray is less than \$5.00; if it exceeds \$5.00, four weeks' published notice shall be given.

Law for form 221, see § 735. Law for form 223, see § 736.

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222.—Notice of Settlement of Estray Charges.

State of Minnesota, }
County of } ss.
To P. F.:

Take notice, that I have applied to J. P., a justice of the peace of said town, to settle and fix the amount due to you (me), by reason of the keeping and use of the said estrays taken up by you (me) about the....day of...., 19.., and claimed by me (you); and that said justice will hear and decide upon said matter at his office in said town, on theday of...., 19.., at....o'clock....m., where you can be present and be heard in the premises. Dated...., 19.. P. F.

223.—Justice's Settlement of Estray Charges.

State of Minnesota, }
County of } ss.

Whereas, a disagreement has arisen between J. S. and P. F., concerning the reasonable and lawful charges incurred in relation to the keeping and use of the following estrays: (describing them), taken up by the said P. F. on or about...., 19.., and kept by said P. F. from said time, and which are now claimed by the said J. S.;

Now, therefore, I, the undersigned, a justice of the peace of the said town, do hereby certify that I have ascertained and do hereby settle and fix the amount due to the said P. F. over the value of the use of such estrays, to be (eighteen) dollars, together with my costs, amounting to (one dollar and fifty cents).

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

224.—Constable's Notice of Sale of Unclaimed Estray.

Notice of Estray Sale.

State of Minnesota, }
County of } ss.

Whereas, on or about the....day of...., 19.., P. F., a resident of said town, did take up (or find on lands owned or occupied by him), the following estrays, viz.: (describing them as in the notice filed with the clerk), which said estrays were, on the....day of...., 19.., by J. P., a justice of the peace of said town, appraised at more than (ten) dollars, to-wit, (name the sum), and more than one year having elapsed since the filing of said notice with the town clerk, and said estray not having been redeemed by the owner thereof; Now, therefore, notice is hereby given that in pursuance of the statute in such case made and provided, and at the request of said P. F., I shall expose the same for sale at public auction to the highest bidder, on the....day of...., 19.., at....o'clock....m., at...., in said town of....

Dated...., 19..

J. M., Constable.

225.—Constable's Report of Estray Sale.

State of Minnesota, }
County of } ss.

I hereby certify and return that on the....day of...., 19.., I gave public notice in writing that the estrays described in the annexed notice would be sold at public auction, by posting up in three of the most public places in said town of...., copies thereof describing said estrays, and giving notice of the time and place when and where the same would be exposed for sale; that at the time so appointed (naming it), I attended at the place mentioned in said notice (naming the place), and then and there exposed the said estrays to sale at public auction to the highest bidder; and sold the said estrays to...., for \$.....(give the price sold

Law for form 225, see § 737. Law for forms 226, 227, see § 841.

for, and to whom), he being the highest bidder therefor; that I have retained \$...., my fees and disbursements, from said amount, and have paid over \$...., the remainder of the money, to P. F., the finder of said estrays. Dated...., 19.. J. M., Constable.

226.—Complaint in Unlawful Detainer Against Tenant.

State of Minnesota, }
County of } ss. In Justice Court,
Before J. P., Justice of the Peace.
W. M., plaintiff,
against
R. R., defendant.

W. M., being first duly sworn, upon his oath, complains of R. R., the defendant in the above entitled action, and alleges, that he is W. M., the complainant herein, of the....of...., and state of Minnesota. That on the....day of...., 19., and long prior thereto, said complainant was, ever since has been, and now is the owner in fee of the following described real estate, lands and tenements, situate, lying and being in the county of...., state of Minnesota.

That said defendant, R. R., now wrongfully and unlawfully detains from said complainant the premises hereinbefore described, and that the complainant is entitled to the immediate possession thereof. In this: That heretofore on or about the....day of...., 19., the said complainant demised, leased and rented by an....lease unto the said defendant the premises hereinbefore described, for and during the term of.... from the....day of...., 19., (x that said defendant agreed to pay this complainant for the rent and use of the above described premises the sum of....dollars, for and during the term aforesaid): that under and pursuant to the terms and conditions of the lease and letting aforesaid, the said defendant, R. R., on or about the....day of...., 19., entered into and took possession of the above described premises.

(a That the time for and during which said premises were demised, leased and let to the said defendant has long since terminated and expired, and that the said defendant holds over said lands and premises and refuses to surrender the same to the complainant, although due demand therefor has been made.)

(b Complainant further states that on the....day of...., 19., there became due and payable from said defendant to this complainant for the rent and use of said lands and premises, pursuant to the said lease and letting the sum of....dollars, which sum is now justly due from said defendant to this complainant, and that no part of said sum has ever been paid.) y.

Wherefore, complainant asks that he have judgment against the said defendant....for the restitution of the lands and premises hereinbefore described according to law, and for the costs and disbursements of this action.

W. M., plaintiff.

Subscribed and sworn to before me this....day of...., 19..

J. P., Justice of the Peace.

(1. In case of tenant holding over, strike out matter from x to a, and from b to y.)

(2. In case of nonpayment of rent, strike out matter from a to b.)

227.—Summons in Unlawful Detainer.

State of Minnesota, }
County of } ss.

The state of Minnesota, to the sheriff or any constable of the county aforesaid:

Whereas, W. M., of the....of...., state of...., has filed with the undersigned, a justice of the peace in and for said county, a complaint against R. R. of the....of....in said county, a copy whereof is hereto attached.

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Therefore, you are hereby commanded to summon the said R. R., if to be found in said county, to appear before the undersigned on the.... day of...., 19.., at....o'clock in the....noon, at his office in the.... of...., in said county, then and there to make answer to, and defend against the complaint aforesaid, and further to be dealt with according to law, and make due return to me of this summons...., with your doings thereon.

Dated at, this day of, A. D. 19...

J. P., Justice of the Peace.

228.—Constable's Return on Summons.

State of Minnesota, } ss.
County of }

I hereby certify and return that on the....day of...., 19.., in said county, I served the within summons and complaint upon the within named defendant, by delivering to and leaving with R. R. personally, true copies thereof, by leaving true copies thereof at the last usual place of abode of the defendant with C. D. (a member of said defendant's family) and (a person of suitable age and discretion then residing therein), by leaving true copies thereof upon the premises described in the complaint, with C. D., a person of suitable age and discretion—occupying—in charge of (a part of) the said premises, (the said defendant not being found in said county, and he having no last and usual place of abode therein.)

(Fees, see form 11.)

J. M., Constable.

229.—Affidavit for Adjournment in Unlawful Detainer.

(Against person holding over, and no written lease signed and acknowledged by both parties.)

State of Minnesota, } ss.
County of }

In Justice Court,
Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant.

R. R., being duly sworn, says, that he is the defendant in above entitled action; that he cannot safely proceed to trial for the want of J. C., a material witness for this defendant in said action; that affiant has made due exertion to obtain the said witness (stating the facts showing diligence); and affiant believes that if an adjournment is allowed him until the....day of...., 19.., he will be able to procure the attendance of said witness, or his deposition, in season to produce the same upon such trial.

R. R.

Subscribed and sworn to before me this....day of...., 19..

J. P., Justice of the Peace.

230.—Bond on Adjournment in Unlawful Detainer.

State of Minnesota, } ss.
County of }

In Justice Court,
Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant.

Know all men by these presents, that we, R. R., defendant, in the above entitled action, as principal, and J. B. and L. O., as sureties, are held and firmly bound unto W. M., plaintiff in the above entitled action, in the sum of....dollars, lawful money of the United States, to be paid to the said W. M., his heirs, executors, administrators or assigns; for which payment, well and truly to be made, we jointly and severally bind ourselves, and each of our heirs, executors and administrators, firmly by these presents. Sealed with our seals and dated this....day of...., 19..

Law for forms 228, see § 842. Law for forms 229, 230, see § 844.

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The condition of this obligation is such, that: Whereas, the above named R. R., defendant in the above entitled action, has applied for an adjournment of said action until the....day of...., 19..; Now, therefore, if the said R. R. shall pay to the said W. M., the complainant in the said action, for all rent which may accrue during the pendency of such action, and all costs and damages consequent on such adjournment, then this obligation shall be void, otherwise to remain in full force and effect.

In testimony whereof, we have hereunto set our hands and seals, this....day of...., A. D. 19..

Signed, sealed and delivered in present of:	R. R. [Seal.]
H. M:	J. B. [Seal.]
W. B.	L. O. [Seal.]

(Acknowledgment, justification of sureties and approval, see forms 4, 5 & 6.)

231.—Form of Verdict For Plaintiff.

State of Minnesota,	}	ss.	In Justice Court,
County of			Before J. P., Justice of the Peace.
			W. M., plaintiff,
			against
			R. R., defendant.

At a court held at the....of...., on the....day of...., 19.., before J. P., a justice of the peace in and for said county, in an action between W. M., plaintiff, and R. R., defendant, the jury find that the facts alleged in the complaint are true, and that the said defendant is guilty thereof, and the said plaintiff ought to have restitution of the premises therein described without delay.

Dated...., 19.. P. D., Foreman.

232.—Form of Verdict For Defendant.

State of Minnesota,	}	ss.	In Justice Court,
County of			Before J. P., Justice of the Peace.
			W. M., plaintiff,
			against
			R. R., defendant.

At a court held at the....of...., on the....day of...., 19.., before J. P., a justice of the peace in and for said county, in an action between W. M., plaintiff, and R. R., defendant, the jury find that the facts alleged in the complaint are not true, and that the said defendant is not guilty.

Dated...., 19.. P. D., Foreman.

233.—Writ of Restitution.

State of Minnesota,	}	ss.	
County of			

The State of Minnesota to the Sheriff or any Constable of the County aforesaid:

Whereas, W. M., plaintiff, of...., in an action for an unlawful or forcible entry and detainer (or for an unlawful detainer, as the case may be), at a court held at...., in the county aforesaid, on the....day of...., 19.., before J. P., a justice of the peace in and for said county, recovered a judgment against R. R., of the....of...., in said county, to have restitution of the following described premises, situate in the....of...., in the county and state aforesaid, viz.: (here describe the premises as in the complaint):

Therefore, you are hereby commanded that, taking with you the force of the county, if necessary, you cause the said R. R. to be immediately removed from the aforesaid premises, and the said....to have peaceable restitution of the same. You are also hereby commanded that of the personal property of the said R. R., within said county you cause to be levied, and, the same being disposed of according to law, to be paid to

Law for forms 231, 232, 234, 233, see § 845.

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the said W. M., the sum of....dollars, being the costs taxed against the said R. R. for the said...., at the court aforesaid, together with twenty-five cents for this writ; and thereof, together with this writ, make due return within thirty days from the date hereof, according to law.

Dated at...., this....day of...., A. D. 19..

...., Justice of the Peace.

234.—Constable's Return of Writ of Restitution.

State of Minnesota, }
County of } ss.

I hereby certify that by virtue of the within writ, I did, on the.... day of...., 19.., remove and cause to be removed, R. R., from the premises described within, and delivered possession of the same to the said W. M., and caused him to have restitution thereof. (I further certify, that I could find no personal property of said R. R. subject to levy, and the said writ is returned wholly unsatisfied for the said costs.) (Where goods are found, levy on them and add the usual forms in execution.)

Dated, 19...

Fees, Service of writ, \$3.00.

J. M., Constable.

235.—Bond on Appeal.

State of Minnesota, }
County of } ss.

In Justice Court,
Before J. P., Justice of the Peace.

W. M., plaintiff,
against

R. R., defendant.

Know all men by these presents, that we, R. R., defendant (or plaintiff), in above entitled action, as principal, and J. B. and L. O., as sureties, are held and firmly bound unto W. M., plaintiff (or defendant), in the above entitled action, in the sum of....dollars, lawful money of the United States, to be paid to the said W. M., his heirs, executors, administrators or assigns, for which payment well and truly to be made, we jointly and severally bind ourselves and each of our heirs, executors and administrators, firmly by these presents.

Sealed with our seals and dated this....day of...., 19..

The condition of this obligation is such, that: Whereas, in an action of (forcible entry and) unlawful detainer in which the above named W. M. was complainant and the said R. R. was defendant, a judgment was recovered by the said W. M. against the said R. R. that (state the judgment): and whereas, the said R. R., feeling aggrieved thereby, desires to appeal to the district court of said county; Now, therefore, if the said R. R. shall pay all costs of such appeal, and abide the order the court may make therein, and pay all rents and other damages justly accruing to said W. M. during the pendency of such appeal, then this obligation shall be void, otherwise to remain in full force and effect.

In testimony whereof, we have hereunto set our hands and seals this....day of...., A. D. 19..

Signed, sealed and delivered in presence of:

R. R. [Seal.]

H. M.

J. B. [Seal.]

W. B.

L. O. [Seal.]

(Acknowledgment, justification of sureties and approval, see forms 4, 5 & 6.)

Note to form 235.—Forms 133, 135, 137 and 138 may be modified and used in making and returning the appeal to the district court.

Law for form 235, see § 848. Law for form 236, see § 849. Law for forms 237, 238, see § 855.

236.—Certificate of Allowance of Appeal.

State of Minnesota, }
County of } ss. In Justice Court,
Before J. P., Justice of the Peace.
A. B., plaintiff,
against
C. D., defendant.

I hereby certify, that the above named C. D. has complied with the statute relating to appeals in such actions; that the appeal in said action is allowed, and the officer having the writ of restitution is required forthwith to cease all further proceedings by virtue thereof.

237.—Complaint For Incurrigibility of Infant.

State of Minnesota, }
County of } ss.

A. B., of said county being duly sworn, says, that he is the parent (or guardian or the person having the custody) of C. D., an infant over the age of eight years and under the age of seventeen years; that said infant is incorrigibly vicious (or an habitual tramp or vagrant) in this, that (here state the facts constituting the delinquency, as that said infant is disobedient, refuses to go to school, but plays truant; or associates with thieves, and refuses to work, or frequents saloons and will not remain at home, or remains out late at night with persons of bad character). That said infant is...years of age, and resides at..., in the said county, with the undersigned (his parent, guardian or custodian) and the conduct and habits of the said C. D. are such that his future moral welfare demand that he be placed under the guardianship of the Minnesota State Training School. Wherefore, A. B. prays that said C. D. may be brought before a justice of the peace for examination upon said matters, and further to be dealt with according to law.

A. B., residing at...,

Subscribed and sworn to before me this...day of..., A. D. 19..

J. P., Justice of the Peace.

238.—Summons to Parent, Guardian or Custodian of Delinquent Infant.

State of Minnesota, }
County of } ss.

To the sheriff or any constable of said county:

Whereas, A. B., of..., has filed with the undersigned a complaint whereby it appears that C. D., an infant, of the age of...years, residing at..., in said county, with..., is incorrigibly vicious (or is an habitual tramp or vagrant) in this that (here set out the facts of the complaint) and praying that the said C. D. may be apprehended and examined upon said matters and dealt with according to law, and warrant has been issued for the apprehension of said C. D. to be and appear before the undersigned for examination at my office, in the...of..., in said county, on the...day of..., 19.., at 10 o'clock in the forenoon.

Note to form 237.—Upon the filing of the complaint, the court shall cause the infant to be apprehended (if not already in custody) by the issuance of a warrant to the proper officer. The warrant may be in the form of warrant § 835 of the manual. He shall also issue a summons No. 238, to the parent or guardian or the person in whose custody the infant is at the time, requiring them to appear at the time and place of the examination and show cause why such infant should not be so committed. The probation officer of the county, if any, shall also be notified. Of course, if the parent makes the complaint, the guardian and custodian shall be summoned. If the custodian makes the complaint, the parent and guardian shall be summoned. See § 857. Form 237 is made for one of the three classes of persons having charge of the infant, but with slight modification the form may be made to fit a complaint by any other person against an infant.

Note to form 238.—If the infant have no parent or guardian or person having his custody, or if, having one or more of these, they fail to obey the summons, the court shall appoint some suitable person to act in their place and to appear at the hearing and protect the interest of the infant. Witnesses are summoned as in ordinary cases. See § 858.

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Therefore you are commanded that, laying all business aside, you be and appear before the undersigned at said time and place and show cause, if any you have, why said infant should not be committed to the Minnesota State Training School.

Given under my hand this....day of...., 19..

J. P., Justice of the Peace.

239.—Testimony of Witnesses—Commitment to Training School.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
The State of Minnesota, plaintiff,
against
R. F., defendant.

State of Minnesota, } ss.
County of }

Evidence of the witnesses examined before me, the undersigned justice of the peace in and for said county, upon the trial of C. D., an infant over the age of eight years and under the age of seventeen years, for the offense of (stating it), (or upon the examination of C. D., an infant over the age of eight years and under the age of seventeen years, on complaint of Z. T., his guardian, for incorrigibly vicious conduct), held before me on the....day of...., 19..

E. F., of the age of (26) years, residing at...., in said county, being duly sworn, testified as follows: (Give his testimony in full.)

F. J., of the age of (23) years, residing at...., in the county of...., being duly sworn, testified as follows, etc.

Taken and reduced to writing by me the day and year first above mentioned.

J. P., Justice of the Peace.

240.—Commitment for Incorrigibility.

State of Minnesota, } ss.
County of }

The state of Minnesota to the sheriff or any constable of said county, and to the Board of Control of the Minnesota State Training School:

Whereas, C. D., of...., in said county, has been brought this day before the undersigned, one of the justices of the peace in and for said county, upon the complaint on oath of A. B. that (here insert the facts and matters pertaining to the delinquency in the complaint as in form 237); and upon an examination held before me upon the matters alleged in the said complaint it appeared from the evidence of (two, at least) disinterested witnesses, whose testimony is hereto attached, that the matters alleged therein were true; thereupon I did adjudge and determine that the said C. D., infant as aforesaid, should be committed to the guardianship of the Minnesota State Training School; therefore, you, the said sheriff or constable, are hereby commanded forthwith to convey the said C. D. to the Minnesota State Training School, in the county of Goodhue, and state of Minnesota, and deliver him into the custody of the said board of managers thereof; and you, the said board of managers, are hereby commanded there to receive into your custody and safely keep the said C. D. during his minority, or until he shall be thence discharged under the rules of said board or by due course of law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

241.—Commitment Upon Conviction For Statutory Crime.

State of Minnesota, } ss.
County of }

The state of Minnesota to the sheriff or any constable of said county, and to the Board of Control of the Minnesota State Training School:

Note to form 240.—This commitment cannot be executed until approved by a judge of the district court. See note to form 242.

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Whereas, at a justice court held at my office in said county, before me, a justice of the peace in and for said county, for the trial of C. D., for the offense hereinafter stated, the said C. D. was convicted of having, on the....day of...., 19.., in said county (here state the offense as in the complaint), and upon conviction—it appearing from the evidence given at such trial that the said C. D. is incorrigibly vicious and that his future moral welfare depends upon his commitment to the Minnesota State Training School, I did adjudge and determine that the said C. D., infant as aforesaid, should be committed to the guardianship of the Minnesota State Training School; therefore, you, the said sheriff or constable, are hereby commanded forthwith to convey the said C. D. to the Minnesota State Training School, in the county of Goodhue, and state of Minnesota, and deliver him into the custody of the said board of managers thereof; and you, the said board of managers, are hereby commanded there to receive into your custody and safely keep the said C. D. during his minority, or until he shall be thence discharged under the rules of said board or by due course of law.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

242.—Return to Judge of District Court.

State of Minnesota,	}	ss.	In Justice Court,
County of	}		Before J. P., Justice of the Peace.
The State of Minnesota, plaintiff,			
against			
R. F., defendant.			

To Hon. J. B., Judge of the district court of the....judicial district:

The undersigned, justice of the peace in and for said county, hereby transmits to you for your examination and approval, or disapproval, the proceedings and evidence had before me in the above entitled cause, to warrant the conviction of the said C. D., an infant over the age of eight years, and under the age of seventeen years, and his commitment to the guardianship of the Minnesota State Training School, as the same appears from my docket and the papers herewith accompanying: (Give a full transcript from the docket of all entries relating to the cause, which should be full and show a complete record of all the proceedings, and at the end add the following certificate.)

State of Minnesota, }
County of } ss.

I hereby certify, that I have compared the foregoing with the original entries in my docket, and that the same is a full and correct transcript therefrom, and of all the proceedings had before me in said action; that the complaint, warrant, commitments, testimony and examination of witnesses, and all recognizances taken by me, together with all process and other papers relating to the action, and filed with me, or had before me therein, are herewith returned and attached, and numbered from (one) to (nine) inclusive; and that, together with the foregoing, transcript, they contain a full, correct and complete statement of all the proceedings had before me in this action.

Given under my hand this....day of...., A. D. 19..

J. P., Justice of the Peace.

Note to form 242.—All the papers in this case should then be attached together, and be transmitted to the judge of the district court, who will examine them and indorse his approval on the commitment, and the infant will be at once conveyed to the state training school; or else indorse his disapproval and at once order his discharge. Meanwhile, during the time taken to submit the evidence and conviction and commitment to the judge of the district court, the prisoner may be remanded into custody to await the final order of the judge. Sentence of commitment may be stayed by the court and the infant placed on probation in the discretion of the court.

FORMS AND INSTRUCTIONS

243.—Complaint of Overseer For Neglect and Refusal to Labor on Roads.

State of Minnesota, }
County of } ss.

The complaint of J. B., of said county, made before J. P., one of the justices of the peace in and for said county, who, being duly sworn, on his oath, says, that on the....day of...., 19.., he was duly elected (or appointed) and thereafter qualified as overseer of roads for the town of...., in said county and state, within which town is situated road district No....; that R. R., an inhabitant of and within said district, was, on the....day of...., 19.., duly assessed....day....labor on the highways of said district for the year 19.., by the board of supervisors of said town, said assessment being duly filed according to law; that pursuant to and in compliance with said assessment and the duty of complainant as said overseer, complainant did, at said town of...., on the....day of...., 19.., duly warn said....of his said assessment and the amount thereof as aforesaid, and did, then and there, duly notify said....to appear for work, with....on...., a highway within said district, on the....day of...., 19.., and perform the necessary work and labor on said highway for the term of....day...., in accordance with his said assessment; that said R. R. has not commuted his said assessment and did neglect and refuse to appear in person or by substitute with....on said....day of...., 19.., at the place and for the purpose specified in said notice, and has, ever since said....day of...., 19.., neglected and refused and does now neglect and refuse to appear with....at said place for said purpose, or make satisfactory excuse therefor, contrary to the statute in such case made and provided and against the peace and dignity of the state of Minnesota;

Wherefore, complainant prays that said R. R. may be arrested and dealt with according to law.

J. B.

Subscribed and sworn to before me this....day of...., A. D. 19..

J. P., Justice of the Peace.

244.—Warrant on Overseer of Roads' Complaint.

State of Minnesota, }
County of } ss.

The state of Minnesota, to the sheriff or any constable of said county:

Whereas, J. B. has to me, this....day of....19.., in writing, on his oath, complained and alleged; that he is the duly elected (appointed) and qualified overseer of roads for the town of.....said county and state, within which town is situated road district No....; that R. R., an inhabitant of and within said district, was on the....day of....19.., duly assessed....day....labor on the highways of said district for the year 19.., by the board of supervisors of said town, said assessment being duly filed according to law; that on the....day of...., 19.., at said town of...., said R. R. was by him, as said overseer of roads, duly warned of his said assessment, and the amount thereof, and that, at said time and place, he did duly notify said R. R. to appear for work with....on...., a highway within said district, on the....day of...., 19.., and perform the necessary work and labor on said highway for the term of....day...., in accordance with said assessment; that said R. R. has not commuted his said assessment and did neglect and refuse to appear in person or by substitute, with on said day of, 19.., at the place and for the purpose specified in said notice and has, ever since said day of, 19.., neglected and refused and does now neglect and refuse to appear in person or substitute with said at said place and for said purpose or make satisfactory excuse therefor, contrary to the statutes

Note to form 243.—Read § 893. For form of return on warrant of arrest and warrant to levy fine, use the ordinary forms.

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in such case made and provided and against the peace and dignity of the state of Minnesota; and prayed that said R. R. may be arrested and dealt with according to law.

Now, therefore, you are commanded forthwith to apprehend the said R. R. and bring him before me, to be dealt with according to law.

Given under my hand this day of, A. D. 19...

J. P., Justice of the Peace.

245.—Warrant to Levy Fine.

State of Minnesota, }
County of } ss.

The State of Minnesota, to the Sheriff or any Constable of said County:

Whereas, at a justice court held at my office in said county on the day of, 19.., for the trial of R. R. for the offense of refusing (or neglecting) to appear and work on the roads of the town of, on the day of, 19.., after being duly notified thereunto by the overseer of roads of the proper road district in said town, and not having paid the commutation money for the said work; and no satisfactory excuse rendered for such refusal (or neglect); and upon the trial thereof no sufficient cause being shown to the contrary, the said court did adjudge that the said R. R. should pay a fine of (six) dollars and costs amounting to (five) dollars; and whereas the said fine and costs have not been paid by the said R. R. These are, therefore, to command you to levy distress on the personal property of the said R. R. (excepting such as the law exempts), and make sale thereof, according to law in such case made and provided, to the amount of said fine and costs, together with twenty-five cents for this execution, and the same return to me within thirty days, to be rendered to the said for said fine and costs. Hereof fail not, under penalty of the law.

Given under my hand this day of, A. D. 19...

J. P., Justice of the Peace.

246.—Complaint in Bastardy Before Birth.

State of Minnesota, }
County of } ss.

The complaint of A. A., of said county, made before J. P., one of the justices of the peace in and for said county, who, being duly sworn, on her oath, says, that she is an unmarried female, and is pregnant with child; that one R. R., on the day of, 19.., at the town of, in said county, did beget the said child upon the body of her, the said A. A.; and that the said R. R. is the father of said child; which said child, when born, will be a bastard and prays that the said R. R. may be arrested and dealt with according to law.

Subscribed and sworn to before me this day of, A. D. 19...

J. P., Justice of the Peace.

247.—Complaint in Bastardy After Birth.

State of Minnesota, }
County of } ss.

The complaint of A. A., of said county, made before J. P., one of the justices of the peace in and for said county, who, being duly sworn, on her oath, says that she is an unmarried female; that on the day of, 19.., she was delivered of a (female) bastard child; that one R. R., on the day of, 19.., at the town of, in said county, did beget the said child upon the body of her, the said A. A.; and that the said R. R. is the father of said child; and prays that the said R. R. may be arrested and dealt with according to law.

Subscribed and sworn to before me this day of, A. D. 19...

J. P., Justice of the Peace.

Law for forms 246, 247, see §§ 880, 884. Law for form 248, see § 882.
Note to form 247.—The usual form of warrant, form 158, may be used for arresting and bringing him before the justice.

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248.—Bond for Support of Child.

State of Minnesota, } ss. In Justice Court,
County of } Before J. P., Justice of the Peace.
The State of Minnesota, plaintiff,
against
R. R., defendant.

Know all men by these presents, that we, R. R., as principal, and J. D. and G. L., as sureties, are held and firmly bound unto the county commissioners of the county of . . . , in the sum of (. . .) dollars, lawful money of the United States, for which payment well and truly to be made, we jointly and severally bind ourselves and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated this . . . day of . . . , 19 . . .

The condition of this obligation is such, that, whereas, the above bounden R. R. was this day brought before J. P., a justice of the peace in and for said county, charged on the oath of A. A. with having begotten a bastard child upon the body of her, the said A. A.; and whereas, the said R. R. has paid and secured to the said A. A. the sum of (three hundred) dollars in full settlement of said matter, which said settlement has been approved by the said board of county commissioners; now, therefore, if the said R. R. shall and does fully indemnify the said county from all charges for the maintenance of such child born (or that may be born), then this obligation to be void; otherwise to remain in full force and effect.

In testimony whereof we have hereunto set our hands and seals this . . . day of . . . , A. D. 19 . . .

Signed, sealed and delivered in presence of:

W. M.
J. S.

R. R. [Seal.]
G. L. [Seal.]
J. D. [Seal.]

(Acknowledgment, justification of sureties and approval as in forms 4, 5 and 6.)

249.—Order of Sale of Unclaimed Property.

State of Minnesota, } ss.
County of }

The State of Minnesota to any Constable of said County:

Whereas, A. B. has made and delivered to the undersigned, a justice of the peace of said county, an affidavit setting forth a description of the property remaining unclaimed in his hands as consignee (or bailee), the time of its reception, the publication of notice as required by law, and whether the owner of such property is known or unknown; and, whereas, I have caused such property to be opened and examined in my presence, and a true inventory thereof to be made, which is hereunto annexed; now, therefore, you, the said constable, are hereby ordered and required to sell the property in said inventory described, at public auction, in the manner provided by law for sales under executions from justice's court, and make return of your proceedings hereon to me, together with the inventory and the proceeds of the sale, after deducting your fees.

Given under my hand this . . . day of . . . , A. D. 19 . . .

J. P., Justice of the Peace.

Note to form 248.—This bond is to be in a sum fixed by the justice (usually \$500), and the sureties should justify and be approved by him, and the bond filed with the county auditor. If no settlement is made, the justice must proceed with the examination, which is to be conducted like other criminal examinations, the testimony written out at length and signed by each witness, and certified up to the district court, if he be held to answer the complaint. If a satisfactory settlement is made, the justice must make a memorandum of the agreement and the county commissioners' approval in his docket, and upon the accused paying the costs of prosecution (and the lying-in expenses, etc., if the child is born), the justice must discharge him.

Law for form 249, see § 750. Law for forms 250, 251, see § 752.

250.—Constable's Notice of Sale of Unclaimed Property.

State of Minnesota, }
County of } ss.

Notice is hereby given that I, the undersigned, a constable of said county, pursuant to an order duly made and delivered to me by J. P., a justice of the peace of said county, directing a sale of the following described personal property now remaining unclaimed in the possession of A. B., consignee (or bailee), viz.: (describe each article separately, giving the owner, if known, as in the inventory), will, on the day of, 19.., at o'clock m., at, in the of, in said county, sell the said personal property at public auction to the highest bidder. Dated, 19... J. M., Constable.

251.—Constable's Return of Sale of Unclaimed Property.

State of Minnesota, }
County of } ss.

I hereby certify and return, that pursuant to the within order, I did, on the day of, 19.., post up notices of sale of the property described in the annexed inventory, in three public places of said county, viz.: (name them) that pursuant to the said notice, I did, on the day of, 19.., sell the said property to the highest bidder, and receive therefor the sum set opposite each article, viz.: (give each article separately, naming the owner, if known, as in the inventory, and the price sold for), making in all the sum of \$...., and that I have retained the sum of \$...., my fees for making said sale, leaving \$...., the net proceeds of said sale, which sum is herewith returned.

Dated, 19...

J. M., Constable.

252.—Marriage Ceremony.

(To the man, standing on the right hand, and the woman on the left, the justice may say, in the presence of at least two witnesses):

"Will you have this woman to be your wedded wife, to live together after God's ordinance, in the holy state of matrimony? Will you love her, comfort her, honor and keep her, in sickness and in health; and, forsaking all others, keep you only unto her, so long as you both shall live?"

Answer—"I will."

(To the woman):

"Will you have this man to be your wedded husband, to live together after God's ordinance, in the holy state of matrimony? Will you love him, comfort him, honor and keep him, in sickness and in health; and, forsaking all others, keep you only unto him, so long as you both shall live?"

Answer—"I will."

(Then joining their right hands, the justice may conclude): "For as much as you have consented together in holy wedlock, and have witnessed the same before God and these witnesses, and have declared the same by joining hands: therefore by virtue of the authority in me vested by the state of Minnesota, I pronounce you to be lawful husband and wife."

253.—Short Form of Marriage Ceremony.

(The justice will direct the parties to join hands, and they say):

"By this act of joining hands you do now solemnly declare, in presence of God and of these witnesses, that you take each other as husband and wife, and engage to love and honor, comfort and cherish each other as such, so long as you both shall live. Therefore, in accordance with the laws of the state of Minnesota, I do hereby pronounce you husband and wife."

Law for form 252, see §763.

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254.—Marriage Certificate.

I hereby certify, that on the day of, in the year of our Lord one thousand nine hundred and, at, in the county of, state of Minnesota, I, the undersigned, a justice of the peace, did join in the holy bonds of matrimony, according to the laws of said state, E. M., of the county of, and state of (Minnesota), and E. M. J., of the county of, and state of (Minnesota), in presence of A. M. and M. M., witnesses.

Given under my hand this day of, A. D. 19...

J. P., Justice of the Peace.

255.—Complaint—Unlicensed Drinking Place.

State of Minnesota, }
County of } ss.

The complaint of L. M., of said county, made before J. P., one of the justices of the peace in and for said county, who, being duly sworn, on his oath, says, that on the day of, 19.., at the of, in said county, R. R. did willfully, wrongfully and unlawfully keep and maintain (or in combination with K. O.), has ever since said date continued to and does now unlawfully (or in combination with K. O.) keep and maintain upon the premises known as No. 29 Front Street (particularly describing the building or room), in the village of, in said county and state, an unlicensed drinking place in which intoxicating liquor is kept for sale and sold or furnished as a beverage to others by the said R. R. (or by A. B. in combination with K. O.), and wherein said R. R. did, during all said times, receive, keep, sell and furnish as a beverage to others, intoxicating liquors so received and kept.

That, during all said times E. F. and G. H. did, and do now, aid, assist, and abet said R. R. in unlawfully keeping and maintaining said unlicensed drinking place for the said purpose; and during all said times did, and do now, aid, assist and abet said R. R. in keeping, selling and furnishing as a beverage to others, intoxicating liquors so received and kept at said place above described.

That the keeping and maintaining of said unlicensed drinking place as aforesaid, and said receiving and keeping, and furnishing as a beverage to others of intoxicating liquors therein is contrary to and in violation of law in this, that said place is unlicensed, and neither of said persons is licensed to keep or sell intoxicating liquor, and against the form of the statute in such case made and provided, and against the peace and dignity of the state of Minnesota.

That the witnesses against the said R. R. are K. J., L. E. and D. O. (and) (those against E. F. and G. H. are E. C, J. K. and H. M. in case E. F. and G. H. are also complained against).

Wherefore, complainant prays that the said R. R. (and E. F., G. H. and K. O.) may be arrested and dealt with according to law. L. M.

Subscribed and sworn to before me this day of, A. D. 19...

J. P., Justice of the Peace.

256.—Warrant—Unlicensed Drinking Place.

State of Minnesota, }
County of } ss.

The State of Minnesota, to the Sheriff or any Constable, Special Constable, Marshal or Policeman of said County:

Whereas, L. M. has this day complained to me, in writing, that R. R., of the village of, on the day of, 19.., did, has ever since, and does now, unlawfully (in combination with K. O.) keep and maintain upon the premises known as No. 29 Front Street (particularly de-

Note to form 255.—If the complaint is against A. B., the keeper alone, the part between the ** may be dropped out, and also the witnesses pertaining thereto. Illegal sales of liquor by pharmacists may be complained of by slight changes in this form to fit the particular facts. See §§ 440, 489. This form may also be modified to fit prosecutions under § 483.

scribing the building or room where kept), in the village of . . . , in said county and state, an unlicensed drinking place, in which intoxicating liquor is kept for sale and sold or furnished as a beverage to others, by the said R. R. (or by the said R. R. in combination with K. O.), and where-in said R. R. (or in combination with K. O.) did, during all said times, receive, keep, sell, and furnish as a beverage to others intoxicating liquors so received or kept,* and that during all said times E. F. and G. H. did aid, assist and abet said R. R. in keeping and maintaining said unlicensed drinking place and in receiving, keeping, selling and furnishing as a beverage to others said intoxicating liquors therein; all contrary to and in violation of law* and against the statute in such case made and provided, and against the peace and dignity of the state of Minnesota, and prayed that the said R. R. (and K. O., E. F. and G. H. if complained against) might be arrested and dealt with according to law.

Now, therefore, you are commanded forthwith to apprehend the said R. R. (and K. O., E. F. and G. H. if complained against) and bring him (them) before me, to be dealt with according to law; and you are also commanded to summon K. J., L. E. and D. O. (and if others than R. R. are complained against them specify their witnesses as above), material witnesses in said complaint, to appear and testify concerning the same.

Further, you are commanded forthwith to enter the place kept and maintained by said R. R., situated at No. 29 Front Street (particularly describing the room or place), in the village of . . . , county of . . . , and state of Minnesota, and thoroughly search the said premises and to seize and hold subject to the order of the court all intoxicating liquors, all vessels, bars, bar fixtures, screens, bottles, glasses, jugs, and all other appurtenances found therein, apparently used in retailing liquors in violation of law, to make a complete inventory thereof, and forthwith serve a copy of such inventory on the defendant or person in charge thereof.

Given under my hand this . . . day of . . . , A. D. 19...

J. P., Justice of the Peace.

257.—Inventory—Unlicensed Drinking Place.

State of Minnesota, }
County of } ss.

I, S. P., a (sheriff, constable or other officer) of said county and state, do hereby certify that, by virtue of a warrant issued by J. P., a justice of the peace within said county, upon the complaint of L. M., dated the . . . day of . . . , 19.., I duly entered the place kept and maintained by R. R., situated (at No. 29 Front Street) (particularly describing the room or place), in the village of . . . , in said county and state, and upon thorough search thereof found, duly seized, and now hold certain property, of which the following is a complete inventory thereof, viz.: . . . intoxicating liquors, . . . screens, . . . vessels, . . . bottles, . . . bar fixtures, . . . glasses, . . . jugs.

Dated at . . . , this . . . day of . . . , 19..

S. P., (Constable, Sheriff or other officer).

258.—Affidavit to Secure Evidence Against Unlicensed Drinking Place.

State of Minnesota, }
County of } ss.

L. M. came before me and being first duly sworn, doth say, that he is a resident voter of the said county and state.

That he knows of his own knowledge (or is informed and believes) that R. R. (or A. B., C. D. and E. F., stating the names and addresses)

Note to form 256.—If the complaint is against the keeper alone and does not include aids and abettors, the part of form between the ** may be omitted as in the complaint.

Note to form 257.—If the defendant be convicted, the liquor is to be destroyed and the other articles sold as on execution for the benefit of the school fund. § 486.

FORMS AND INSTRUCTIONS

frequents the building (or boarding house or hotel) known as the Lake road house, situated at the junction of Lake Street and Prairie Avenue (or describe the place or building or room particularly) in the town of, said county and state, for the purpose of obtaining intoxicating liquors illegally. Affiant further says that he is informed and believes that intoxicating liquors are illegally sold and disposed of at said place. That the name of the proprietor of said place above described is J. K. (or if unknown state that fact). Further affiant saith not. L. M.

Subscribed and sworn to before me this day of, A. D. 19...

Note to form 258.—Upon the filing of this affidavit with a justice of the district where the place is, or that of an adjoining town or district who has criminal jurisdiction, the justice shall issue a subpoena (ordinary form) for the person or persons named in the affidavit as frequenting said place, commanding them to appear before him at a time and place named for examination; and if it be found tht intoxicating liquors are illegally sold at said place he shall issue a warrant for the arrest of such offender and he shall be prosecuted as in other cases. See § 499.

FOR DOCKET ENTRIES—CIVIL CASES

See pages 506 to 520 inclusive

FOR DOCKET ENTRIES—CRIMINAL CASES

See pages 521 to 529 inclusive

Sam BrownPlaintiffagainstChas. DunnDefendant

STATE OF MINNESOTA

County of Meeker

SS.

IN JUSTICE'S COURT

Before O. C. Bissel*Justice of the Peace**Action on Account. Oral Complaint. Bond Before Judgment in Default.*

Litchfield, May 1st, 1909. Summons issued, returnable at my office in the Village of Litchfield, in said County, on the 7th day of May, 1909, at 10 a. m., and delivered to Constable H. M. Angier for service. Plaintiff's claim \$34.60.

May 5th, 1909. Summons returned by Constable H. M. Angier with his certificate thereon, that on the 2nd day of May, 1909, he served the within summons upon the Defendant, leaving a copy thereof at his last usual place of abode, with one John Jones, a person of suitable age and discretion, then residing therein, Defendant not being found. Constable fees \$1.10. Summons filed.

May 7th, 1909, 10 a. m. Case called. Plaintiff appeared in person and made oral complaint, upon oath, that between the 1st day of September and the 20th day of December, 1908, he sold and delivered to the Defendant, at his special instance and request, goods, wares and merchandise to the amount of, and of the reasonable value of, \$75.80. That Defendant agreed to pay therefor the said sum of \$75.80, no part of which has ever been paid, except the sum of \$41.20. Plaintiff demands judgment for the sum of \$34.60 with interest and costs. After waiting one hour the Defendant failed to appear in person or by attorney. Plaintiff sworn and testified and proved his cause of action. Bond for restitution in the sum of \$80.00, with sufficient sureties, approved and filed. It is therefore adjudged that the Plaintiff recover of the Defendant the sum of \$35.30 damages and the costs of this action, taxed at \$4.65. Total Judgment \$39.95.

*Dated May 7th, 1909.**O. C. Bissel,**Justice of the Peace.*

May 18th, 1909. Execution issued to collect damages, \$35.30, and costs, \$4.65. Total \$39.95, and delivered to Constable H. M. Angier for service.

May 25th, 1909. Execution returned by Constable H. M. Angier with his certificate thereon, that after diligent search and inquiry he could find no personal property of the within named judgment debtor subject to levy, and returned this execution wholly unsatisfied. Constable fees, \$.50. Execution filed.

Transcript of judgment and of the issuing and return of an execution thereon delivered to Plaintiff.

*O. C. Bissel,**Justice of the Peace.*

Sam BrownPlaintiffagainstChas. DunnDefendant

STATE OF MINNESOTA

County of Meeker

SS.

IN JUSTICE'S COURT

Before O. C. BisselJustice of the Peace

Action on Promissory Note. Pleadings Filed. Jury Trial.

Litchfield, May 1st, 1909. Summons issued, returnable at my office in the Village of Litchfield, in said County, on the 7th day of May, 1909, at 10 a. m., and delivered to Constable H. M. Angier for service. Plaintiff's claim \$37.00.

May 5th, 1909. Summons returned by Constable H. M. Angier with his certificate thereon, that on the 2nd day of May, 1909, he served the within summons upon the within named Defendant personally, by reading the same, and delivering a copy thereof to him, in said County. Constable fees \$3.00. Summons filed.

May 7th, 1909, 10 a. m. Case called. Plaintiff appeared by Attorney A. R. Hunt, and filed a written complaint, duly verified, alleging that on the 10th day of June, 1908, the Defendant executed and delivered to the Plaintiff his promissory note in writing, and thereby promised to pay said Plaintiff, for value received, the sum of \$37.00, with interest. Plaintiff demands judgment for said sum with interest and costs. Defendant appeared by Attorney E. W. Campbell, and filed a written answer, duly verified, alleging a counter-claim for work, labor, and services performed for the Plaintiff, at his special instance and request, between the 1st day of August and the 1st day of October, 1908, for a period of two months at the agreed price of \$30.00 per month, no part of which has ever been paid. Defendant demands that Plaintiff take nothing by this action, and that he have judgment for the sum of \$23.00, with interest and costs. Plaintiff filed a written reply, duly verified, alleging a general denial. By consent of parties in Court, it is ordered that this case be continued for trial, at my office, in the Village of Litchfield, in said County, on the 14th day of May, 1909, at 1 p. m.

May 14th, 1909, 1 p. m. Case called. Plaintiff appeared with Attorney A. R. Hunt. Defendant appeared with Attorney E. W. Campbell. Defendant demanded a jury trial, and parties agreed to a jury of six. Defendant deposited the jury fee of \$6.00 in Court. Constable H. M. Angier ordered to draw a jury list of eighteen names of residents of this County. Jury list filed, from which each party struck six names. Venire issued requiring (give list) to appear forthwith and act as jurors in said cause, and delivered to Constable H. M. Angier for service. Venire returned by Constable with his certificate thereon, that (give return of officer). Constable fees \$1.20. Venire filed. Jurors all present in Court, examined by parties and accepted. Jurors sworn. Plaintiff sworn and testified in his own behalf. Note offered in evidence, marked Exhibit "A" and filed. Plaintiff rests. (Note in order in the docket all objections to evidence, rulings and exceptions whenever they occur, thus: Q. What did Plaintiff say in that letter? Objected to by Defendant as not the best evidence. Objection sustained. Exception by Defendant or Plaintiff, as case may be.) Defendant moved to dismiss this action on the ground that the Plaintiff has wholly failed to prove a cause of action. Motion denied. (Note in order in the docket all motions, rulings and exceptions whenever made.) Defendant sworn and testified in his own behalf. Defendant rests. Plaintiff testifies in rebuttal. Testimony closed. Attorneys argued cause to the jury. Constable H. M. Angier sworn to take charge of the jury. Jury retired. Jury returned written verdict in Court, and found for the Plaintiff in the sum of \$20.00. Verdict filed. Jurors paid their fees and discharged. It is therefore adjudged that the Plaintiff recover of the Defendant the sum of \$20.00 damages and the costs of this action, taxed at \$18.30. Total Judgment \$38.30.

Dated May 14th, 1909.

O. C. Bissel,
Justice of the Peace.

✎ The prevailing party only recovers costs, and no costs should be taxed for the losing party.

*Sam Brown**Plaintiff**against**Chas. Dunn**Defendant*

STATE OF MINNESOTA

County of *Meeker*

SS.

IN JUSTICE'S COURT

Before *O. C. Bissel**Justice of the Peace*

Garnishee Action. Trial by Court.

Litchfield, May 1st, 1909. Plaintiff filed affidavit of garnishment, duly verified, stating that he believes the above named Garnishee has property and money in his hands, and under his control, belonging to the Defendant herein, exceeding the sum of \$10.00. Garnishee summons issued, returnable at my office in the Village of Litchfield, in said County, on the 7th day of May, 1909, at 1 p. m., and delivered to Constable H. M. Angier for service.

May 5th, 1909. Garnishee summons returned by Constable H. M. Angier with his certificate thereon, that on the 1st day of May, 1909, in said County, he served the within summons upon the within named Garnishee personally, by reading the same to the said Garnishee, and delivering a copy thereof to him, and paid him in advance the sum of \$1.12, his fees for one day and mileage; and that on the 2nd day of May, 1909, in said County, he served the within summons and notice to the Defendant, upon the within named Defendant, personally, by reading the same to the Defendant, and delivering a copy thereof to him. Constable fees \$1.65. Summons filed.

May 7th, 1909, 1 p. m. Case called. Garnishee appeared in person. Plaintiff appeared by Attorney A. R. Hunt. Defendant appeared by Attorney E. W. Campbell. By consent of parties in Court, it is ordered that this case be continued for trial, at my office, in the Village of Litchfield, in said county, on the 14th day of May, 1909, at 1 p. m.

May 14th, 1909, 1 p. m. Case called. Garnishee appeared in person. Plaintiff appeared with Attorney A. R. Hunt. Defendant appeared with Attorney E. W. Campbell. J. E. Ford, Garnishee, sworn and testified and his testimony reduced to writing and filed herein. (Note in order in the transcript of testimony all objections, rulings and exceptions whenever they occur.) Examination closed. Judgment having been entered in the original action herein, in favor of the Plaintiff against the Defendant in the sum of \$32.30, and it appearing from the disclosure of the Garnishee herein that at the time of the service of the garnishee summons above issued he was owing and indebted to the Defendant in the sum of \$60.00. It is therefore adjudged that the Plaintiff recover of the Garnishee herein the sum of \$32.30 and the costs of this action, taxed at \$5.72. Total Judgment \$38.02.

*Dated May 14th, 1909.**O. C. Bissel,**Justice of the Peace.*

JUSTICE'S FEES

AMOUNT

OFFICERS' FEES—CONTINUED

AMOUNT

	Brought Forward, \$	.1	65
--2--	Copies of Garnishee Summons.....		60
	Writing Jury List and Summoning Jury		
	Attendance on Jury		
	Attendance on Justice Court..... days		
	Copies of Affidavits or Other Papers,..... folios		
	Taking and Approving Security.....		
			
			
			
	Total, \$	.1	65

WITNESSES' NAMES AND FEES

DAYS	MILES	AMOUNT
------	-------	--------

Only two witnesses to each particular fact can be taxed

[illegible]

JURORS' NAMES AND FEES

DAYS	MILES	AMOUNT
1	10	100
2	20	200
3	30	300
4	40	400
5	50	500
6	60	600
7	70	700
8	80	800
9	90	900
10	100	1000

[illegible]

OFFICERS' FEES

AMOUNT

Serving.....	Summons and.....	copies.....	
Mileage Serving Summons.....	4.....	miles.....	40
Serving Subpoenas on.....	Witnesses.....		
Mileage Serving Subpoenas.....		miles.....	
Serving.....	Writs of Attachment.....		
Mileage Serving Attachment.....		miles.....	
.....	Copies of Attachment and Inventory.....		
Serving.....	Writs of Replevin.....		
Mileage Serving Replevin.....		miles.....	
.....	Copies of Replevin and Inventory.....		
Serving.....	1.....	Summons on Garnishee.....	50
Serving.....	1.....	Notices on Defendant.....	15
	Carried Forward, \$.....		1. 05

RECAPITULATION

AMOUNT

	2	95
Justice's Fees -----		
Officers' Fees -----	1	65
Witnesses' Fees -----	1	12
Disbursements -----		
Jurors' Fees -----		

Total, \$ -----	5	72

Sam BrownPlaintiffagainstChas. DunnDefendant

STATE OF MINNESOTA

County of Meeker

SS.

IN JUSTICE'S COURT

Before

O. C. Bissel

Justice of the Peace

Action in Attachment.

Change of Venue and Appeal.

May 1st, 1909. Affidavit of attachment filed by Plaintiff, duly verified, stating the grounds for issuing a writ of attachment against the personal property of Chas. Dunn, to secure the sum of \$20.00 due the Plaintiff. Bond of attachment in the sum of \$100, with sufficient sureties approved and filed. Writ of attachment issued, returnable at my office in the Village of Litchfield, in said county, on the 7th day of May, 1909, at 10 a. m., and delivered to Constable H. M. Angier for service.

May 5th, 1909. Writ of attachment returned by Constable H. M. Angier with his certificate thereon, that (here insert the return of the officer). Constable fees \$2.80. Writ filed.

May 7th, 1909, 10 a. m. Case called. Plaintiff appeared in person. Defendant appeared in person and filed an affidavit, duly verified, stating that from prejudice, bias and other cause, he believes that the Justice of the Peace, before whom this action is pending, will not decide impartially in the matter, and asks that it be transferred to some other Justice. Justice costs taxed at \$3.40 paid by Defendant. It is therefore ordered that this action, together with all the proceedings therein, be transferred to N. E. Hanson, a Justice of the Peace of the town of Acton, an adjoining election district, and that all parties and witnesses herein appear forthwith before the said Justice at his office in the Village of Grove City, in said County. Transcript delivered.

O. C. Bissel,

Justice of the Peace.

(Title of cause entered in docket with name of Justice substituted.)

May 7th, 1909. Transcript of all proceedings had before O. C. Bissel, Justice of the Peace, in said action, together with all papers filed in the case, delivered to me and filed, upon a change of venue taken from said Justice. Case called. Plaintiff appeared in person and filed a written complaint, duly verified, (state the nature and amount of the demand as in form 4.) Defendant appeared in person and filed a written answer, duly verified, (state the nature of the answer, and if a set-off is pleaded, its nature and amount as in form 4.) Plaintiff filed a written reply, duly verified, alleging a general denial. Cause tried by the Court. Plaintiff sworn and testified in his own behalf. Plaintiff rests. Defendant sworn and testified in his own behalf. Defendant rests. Testimony closed. It is therefore adjudged that the Plaintiff recover of the Defendant the sum of \$20.00 damages and the cost of this action, taxed at \$8.30. Total Judgment, \$28.30.

Dated May 7th, 1909.

N. E. Hanson,

Justice of the Peace.

May 16th, 1909. Defendant filed affidavit of appeal, duly verified, stating that the appeal was made in good faith and not for the purpose of delay. Bond of appeal in the sum of \$100.00, with sufficient surety, approved and filed. Notice of appeal showing personal service on the Plaintiff filed. Costs of appeal \$2.00 paid by Defendant. Appeal allowed. Transcript delivered to the Clerk of District Court.

N. E. Hanson,

Justice of the Peace.

☛ The prevailing party only recovers costs, and no costs should be taxed for the losing party.

[illegible]

<u>Sam Brown</u>	{ STATE OF MINNESOTA County of <u>Meeker</u> }	SS. IN JUSTICE'S COURT Before <u>O. C. Bissel</u> Justice of the Peace
<u>Plaintiff</u>		
<u>against</u>		
<u>Chas. Dunn</u>		
<u>Defendant</u>		

Replevin. Judgment for Plaintiff.

Litchfield, May 1st, 1909. Plaintiff filed affidavit in Replevin, duly verified, stating that one bay horse of his personal property is at this time wrongfully detained from him by said Defendant, and that he is entitled to the immediate possession thereof, and that the value of said property is eighty-five dollars. Bond in replevin in double the value of the property approved and filed. Writ of replevin issued, returnable at my office in the Village of Litchfield in said county, on the 7th day of May, 1909, at 10 a. m., and delivered to Constable H. M. Angier for service.

May 5th, 1909. Writ of replevin returned by Constable H. M. Angier with his certificate thereon, that on the 2nd day of May, 1909, he replevied the property therein described, and retained possession thereof two days (state whether property was delivered to Plaintiff or returned to Defendant), and on the same day he served the within writ upon the defendant personally, by reading the same to said Defendant and delivering a copy thereof to him, in said county. Constable fees \$3.40. Writ filed.

May 7th, 1909, 10 a. m. Case called. Plaintiff appeared in person and filed a written complaint, duly verified, alleging that he was the owner of and entitled to the immediate possession of one bay horse, that the value of said personal property was \$85.00; and prayed judgment for the delivery thereof and for the costs of this action. Defendant appeared in person and filed a written answer, duly verified, denying Plaintiff's title and right of possession to said personal property; and prayed judgment for the return thereof and for the costs of this action. By consent of parties in court, it is ordered, that this case be continued for trial at my office in the Village of Litchfield in said county, on the 14th day of May, 1909, at 1 p. m.

May 14th, 1909, 1 p. m. Case called. Plaintiff appeared with Attorney A. R. Hunt. Defendant appeared with Attorney E. W. Campbell. Cause tried by the court. Plaintiff sworn and testified in his own behalf. Andrew Olson and Chas. Foss sworn and testified in behalf of Plaintiff. Plaintiff rests. Defendant sworn and testified in his own behalf. P. J. Eddy and Knute Olson sworn and testified in behalf of Defendant. Defendant rests. (Note in order in the docket all objections to evidence, rulings and exceptions whenever they occur as in form 4.) Testimony closed. Plaintiff and Defendant each filed, duly verified, affidavit of mileage and attendance of witnesses. After considering the evidence adduced herein, it is therefore adjudged that the Plaintiff retain possession of the personal property described in the complaint herein, and that Plaintiff recover of the Defendant the costs of this action, taxed at \$13.51.

Dated May 14th, 1909.

O. C. Bissel,
Justice of the Peace.

(If the property be not obtained or if the Defendant filed a bond within two days and the property was returned to him judgment should be entered for the Plaintiff as follows. It is therefore adjudged, that the Plaintiff have judgment against the Defendant for the return of the personal property described in the complaint herein, or, if a return cannot be had, that Plaintiff recover of the Defendant the sum of \$85.00, the value of said property, together with the sum of \$ damages for the detention thereof, and the costs of this action, taxed at \$ Total Judgment \$. Dated and signed by the Justice as above.)

☛ The prevailing party only recovers costs, and no costs should be taxed for the losing party.

[illegible]

Sam BrownPlaintiffagainstChas. DunnDefendant

STATE OF MINNESOTA

County of Meeker

SS.

IN JUSTICE'S COURT

Before

O. C. BisselJustice of the Peace

Replevin. Judgment for Defendant.

Litchfield, May 1st, 1909. Plaintiff filed affidavit in Replevin, duly verified, stating that one bay horse of his personal property is at this time wrongfully detained from him by said Defendant, and that he is entitled to the immediate possession thereof, and that the value of said property is eighty-five dollars. Bond in replevin in double the value of the property approved and filed. Writ of replevin issued, returnable at my office in the Village of Litchfield, in said county, on the 7th day of May, 1909, at 10 a. m., and delivered to Constable H. M. Angier for service.

May 5th, 1909. Writ of replevin returned by Constable H. M. Angier with his certificate thereon, that on the 2nd day of May, 1909, he replevied the property therein described, and retained possession thereof two days (state whether property was delivered to Plaintiff or returned to Defendant), and on the same day he served the within writ upon the Defendant personally, by reading the same to said Defendant and delivering a copy thereof to him, in said County. Constable fees \$3.40. Writ filed.

May 7th, 1909, 10 a. m. Case called. Plaintiff appeared in person and filed a written complaint, duly verified, alleging that he was the owner of and entitled to the immediate possession of one bay horse, that the value of said personal property was \$85.00; and prayed judgment for the delivery thereof and for the costs of this action. Defendant appeared in person and filed a written answer, duly verified, denying Plaintiff's title and right of possession to said personal property; and prayed judgment for the return thereof and for the costs of this action. By consent of parties in court, it is ordered, that this case be continued for trial at my office in the Village of Litchfield, in said county, on the 14th day of May, 1909, at 1 p. m.

May 14th, 1909, 1 p. m. Case called. Plaintiff appeared with Attorney A. R. Hunt. Defendant appeared with Attorney E. W. Campbell. Cause tried by the court. Plaintiff sworn and testified in his own behalf. Andrew Olson and Chas. Foss sworn and testified in behalf of Plaintiff. Plaintiff rests. Defendant sworn and testified in his own behalf. P. J. Eddy and Knute Olson sworn and testified in behalf of Defendant. Defendant rests. (Note in order in the docket all objections to evidence, rulings and exceptions whenever they occur as in form 4.) Testimony closed. Plaintiff and Defendant each filed, duly verified, affidavit of mileage and attendance of witnesses. After considering the evidence adduced herein, it is therefore adjudged that the Defendant retain possession of the personal property described in the complaint herein, and that Defendant recover of the Plaintiff the costs of this action, taxed at \$13.51.

Dated May 14th, 1909.

O. C. Bissel,
Justice of the Peace.

(If the property be obtained and delivered to the Plaintiff and he fails to establish his right thereto, or the action is dismissed, judgment should be entered for the Defendant as follows: It is therefore adjudged that the Defendant have judgment against the Plaintiff for the return of the personal property described in the complaint herein, or, if a return cannot be had, that Defendant recover of the Plaintiff the sum of \$85.00, the value of said property, together with the sum of \$ damages and the costs of this action, taxed at \$. Total Judgment, \$.
Dated and signed by the Justice as above.)

☛ The prevailing party only recovers costs, and no costs should be taxed for the losing party.

JUSTICE'S FEES	AMOUNT
Issuing Summons	
Entering Judgment by Confession.....	
Entering Amicable Suits	
Certifying...2..Oaths to Pleadings	30
Approving Security for Costs	
Issuing..... Venires for Jury	
Swearing Jury and Attending Officer	
Issuing..... Subpoenas	
Swearing....6... Witnesses..... Interpreters	90
Issuing..... Commissions to Take Testimony	
Issuing..... Notices to Take Deposition	
Entering Appearance of Plaintiff	20
Entering Appearance of Defendant	20
Entering....1..Adjournments	15
Entering....1..Orders for Adjournments	15
Entering..... Motions and Orders	
Entering....8..Objections and Exceptions	1 20
Issuing Garnishee Summons	
Notice to Defendant in Garnishment	
Notice to Claimant in Garnishment	
Taking..... Examinations,..... folios	
Issuing Writ of Attachment	25
Approving....1..Bonds in Attachment	25
Issuing Writ of Replevin	
Approving..... Bonds in Replevin	
Certifying....3..Oaths to Bonds	45
Certifying....3..Oaths to Affidavits	45
Drawing Affidavits or Other Papers,...6..folios	90
Copies of Proceedings or Papers,..... folios	
Entering....4..folios, Docket Entries	60
Filing....7..Papers	35
Taxing Costs	15
Entering Judgment	25
Opening a Judgment for Rehearing	
Issuing Execution	
Issuing Transcript of Judgment	
Entering Satisfaction of Judgment	
Making Return to Appeal, Including Travel	
Holding Inquisit'n, forcible Entry and Detainer	
Total, \$	6 75

OFFICERS' FEES	AMOUNT
Serving.....Summons and.....copies	
Mileage Serving Summons.....miles	
Serving Subpoenas on.....Witnesses	
Mileage Serving Subpoenas.....miles	
Serving.....Writs of Attachment	
Mileage Serving Attachment.....miles	
.....Copies of Attachment and Inventory	
Serving....1..Writs of Replevin	50
Mileage Serving Replevin,..27..miles	2 70
.....2..Copies of Replevin and Inventory	30
Serving.....Summons on Garnishee	
Serving.....Notices on Defendant	
Carried Forward, \$	3 50

OFFICERS' FEES—CONTINUED		AMOUNT
Brought Forward, \$		3 50
Copies of Garnishee Summons		
Writing Jury List and Summoning Jury		
Attendance on Jury		
Attendance on Justice Court.....days		
Copies of Affidavits or Other Papers,.....folios		
Taking and Approving Security		
Total, \$		3 50

WITNESSES' NAMES AND FEES	DAYS	MILES	AMOUNT
Only two witnesses to each particular fact can be taxed			
P. J. Eddy	1	.9	1 54
Knut Olson	1	12	1 72
Total			3 26

JURORS' NAMES AND FEES	DAYS	MILES	AMOUNT
Total			

RECAPITULATION		AMOUNT
Justice's Fees		6 75
Officers' Fees		3 50
Witnesses' Fees		3 26
Disbursements		
Jurors' Fees		
Total, \$		13 51

Sam BrownPlaintiffagainstChas. Dunnand Mary A. DunnDefendants

STATE OF MINNESOTA

County of Meeker

SS.

IN JUSTICE'S COURT

Before

O. C. BisselJustice of the Peace

Action in Unlawful Detainer. Judgment for Plaintiff or Defendant.

Litchfield, May 1st, 1909. Plaintiff filed a written complaint, duly verified, alleging that the premises therein described are unlawfully detained from the Plaintiff by the Defendants, and that he is entitled to the immediate possession thereof, and prayed for restitution thereof, and the costs of this action. Summons issued, returnable at my office in the village of Litchfield in said county, on the 7th day of May, 1909, at 9 a. m., and delivered to Constable H. M. Angier for service.

May 5th, 1909. Summons returned by Constable H. M. Angier with his certificate thereon, that on the 2nd day of May, 1909, in said county, he served the within summons and complaint upon the within named defendants, by delivering to and leaving with each of them personally, true copies thereof. Constable fees \$1.90. Summons filed.

May 7th, 1909, 9 a. m. Case called. Plaintiff appeared in person. Defendants appeared in person and filed a written answer, duly verified, alleging a general denial. Defendants moved that Plaintiff give security for costs. Motion granted. Plaintiff filed security for costs, which was approved. Defendants demanded a jury trial, and parties agreed to a jury of six. Defendants deposited the jury fee of \$6.00 in Court. Constable H. M. Angier ordered to draw a jury list of eighteen names of residents of this County. Jury list filed, from which each party struck six names. Venire issued requiring (give list) to appear forthwith and act as jurors in said cause, and delivered to Constable H. M. Angier for service. Venire returned by Constable H. M. Angier with his certificate thereon, that (give return of officer). Constable fees \$1.20. Venire filed. Jurors all present in Court, examined by parties and accepted. Jurors sworn. Plaintiff sworn and testified in his own behalf. Andrew Olson and J. F. Burns sworn and testified in behalf of the Plaintiff. Plaintiff rests. Defendants move to dismiss the action on the ground that the Plaintiff has not made out a cause of action. Motion denied. Exception by Defendants. Defendants sworn and testified in their own behalf. J. M. Simmons and Mons Olson sworn and testified in behalf of the Defendants. Defendants rest. Testimony closed. Constable H. M. Angier sworn to take charge of the jury. Jury retired. Plaintiff and Defendants each filed, duly verified, affidavit of mileage and attendance of witnesses. Jury returned written verdict in Court, and found the Defendants not guilty of the allegations in the complaint. Verdict filed. Jurors paid their fees and discharged. It is therefore adjudged that the Defendants are entitled to the possession of the premises described in the complaint herein, and that the Defendants recover of the Plaintiff the costs of this action, taxed at \$20.99.

Dated May 7th, 1909.

O. C. Bissel,

Justice of the Peace.

(If the Justice or jury should find the Defendant guilty of the allegation in the complaint judgment should be entered for the Plaintiff as follows; It is therefore adjudged that the Plaintiff have restitution of the premises described in the complaint herein as against the Defendant, and that the Plaintiff recover of the Defendants the costs of this action, taxed at \$20.99. Dated and signed by the Justice.)

 The prevailing party only recovers costs, and no costs should be taxed for the losing party.

JUSTICE'S FEES	AMOUNT
Issuing Summons	25
Entering Judgment by Confession.....	--
Entering Amicable Suits.....	--
Certifying....2..Oaths to Pleadings.....	30
Approving Security for Costs.....	25
Issuing...1..Venires for Jury.....	25
Swearng Jury and Attending Officer.....	40
Issuing.....Subpoenas.....	--
Swearng...7..Witnesses.....Interpreters.....	1 05
Issuing.....Commissions to Take Testimony.....	--
Issuing.....Notices to Take Deposition.....	--
Entering Appearance of Plaintiff.....	20
Entering Appearance of Defendant.....	20
Entering.....Adjournments.....	--
Entering.....Orders for Adjournments.....	--
Entering...2..Motions and Orders.....	30
Entering...4..Objections and Exceptions.....	60
Issuing Garnishee Summons.....	--
Notice to Defendant in Garnishment.....	--
Notice to Claimant in Garnishment.....	--
Taking.....Examinations,.....folios.....	--
Issuing Writ of Attachment.....	--
Approving.....Bonds in Attachment.....	--
Issuing Writ of Replevin.....	--
Approving.....Bonds in Replevin.....	--
Certifying.....Oaths to Bonds.....	--
Certifying.....Oaths to Affidavits.....	--
Drawing Affidavits or Other Papers, .4 folios.....	60
Copies of Proceedings or Papers,.....folios.....	--
Entering...5..folios, Docket Entries.....	75
Filing...6..Papers.....	30
Taxing Costs.....	15
Entering Judgment.....	25
Opening a Judgment for Rehearing.....	--
Issuing Execution.....	--
Issuing Transcript of Judgment.....	--
Entering Satisfaction of Judgment.....	--
Making Return to Appeal, Including Travel.....	--
Holding Inquisit'n, forcible Entry and Detainer.....	1 00
Total, \$.....	-6_95

OFFICERS' FEES	AMOUNT
Serving...1..Summons and...1..copies.....	65
Mileage Serving Summons...12..miles.....	1 20
Serving Subpoenas on.....Witnesses.....	--
Mileage Serving Subpoenas.....miles.....	--
Serving.....Writs of Attachment.....	--
Mileage Serving Attachment.....miles.....	--
Copies of Attachment and Inventory.....	--
Serving.....Writs of Replevin.....	--
Mileage Serving Replevin.....miles.....	--
Copies of Replevin and Inventory.....	--
Serving.....Summons on Garnishee.....	--
Serving.....Notices on Defendant.....	--
Carried Forward, \$.....	1_85

OFFICERS' FEES—CONTINUED	AMOUNT
Brought Forward, \$.....	1_85
Copies of Garnishee Summons.....	--
Writing Jury List and Summoning Jury.....	1_35
Attendance on Jury.....	50
Attendance on Justice Court...1..days.....	1 00
Copies of Affidavits or Other Papers,.....folios.....	--
Taking and Approving Security.....	--
Total, \$.....	4_70

WITNESSES' NAMES AND FEES	DAYS	MILES	AMOUNT
Only two witnesses to each particular fact can be taxed			
Andrew Olson.....	1	12	1_72
J. F. Burns.....	1	12	1_72
Total.....			3_44

JURORS' NAMES AND FEES	DAYS	MILES	AMOUNT
John Jones.....	1		1_00
William Watson.....	1		1_00
Sam Couson.....	1		1_00
Jack Hunter.....	1		1_00
William Schultz.....	1		1_00
Charles Anderson.....	1		1_00
Total.....			6_00

RECAPITULATION	AMOUNT
Justice's Fees.....	6_85
Officers' Fees.....	4_70
Witnesses' Fees.....	3_44
Disbursements.....	--
Jurors' Fees.....	6_00
Total, \$.....	20_99

Sam BrownPlaintiffagainstChas. DunnDefendant

STATE OF MINNESOTA

County of Meeker

SS.

IN JUSTICE'S COURT

Before

O. C. BisselJustice of the PeaceBill of CostsJustice's Fees

<u>Affidavit of Attachment, 2 folios</u>	<u>30</u>
<u>Oath to Affidavit</u>	<u>15</u>
<u>Writ of Attachment</u>	<u>25</u>
<u>Bond in Attachment</u>	<u>45</u>
<u>Three Oaths to Bond</u>	<u>45</u>
<u>Approving Bond</u>	<u>25</u>
<u>Oath to Complaint</u>	<u>15</u>
<u>Swearing 1 Witness</u>	<u>15</u>
<u>Docket Entries, 3 folios</u>	<u>45</u>
<u>Taxing Costs</u>	<u>15</u>
<u>Entering Judgment</u>	<u>25</u>
<u>Issuing Execution</u>	<u>25</u>
<u>Entering Satisfaction of Judgm't</u>	<u>25</u>
<u>Total, \$</u>	<u>3 60</u>

Officers Fees

<u>Serving Writ of Attachment</u>	<u>50</u>
<u>Mileage, Serving Writ, 20 miles</u>	<u>2 00</u>
<u>Copy of Writ and Inventory</u>	<u>30</u>
<u>Total, \$</u>	<u>2 80</u>

Action in Attachment.

Litchfield, Minn., January 10th, 1906. Affidavit of Attachment filed by Plaintiff duly sworn to, that said Defendant is indebted to Plaintiff in a sum exceeding \$5.00, to-wit, the sum of \$45.00, and that the same is due upon contract expressed, and that deponent has good reason to believe that said Defendant is about to fraudulently convey and dispose of his property so as to hinder, delay and defraud his creditors. Bond of Attachment in the sum of \$100.00 with sufficient surety approved and filed. Writ of Attachment issued, returnable at my office at the Village of Litchfield, in said County, on the 20th day of January, 1906, at 1 p. m., and delivered to Constable H. M. Angier for service.

January 12th, 1906. Writ of Attachment returned by Constable H. M. Angier certifying that he had personally served the same together with a certified inventory of the property attached upon the Defendant in said County. Constable fees, \$2.80. Writ filed.

January 20th, 1906, 1 p. m. Case called. Plaintiff appears in person, and files duly verified complaint upon promissory note alleging that on the 1st day of November, 1903, the Defendant executed and delivered to the Plaintiff his promissory note in writing and thereby promised to pay Plaintiff on demand the sum of \$45.00, no part of which has ever been paid and prays judgment for said amount with interest and costs. After waiting one hour the Defendant did not appear in person or by attorney. Note offered in evidence and filed. Plaintiff sworn and testified and proves his cause of action. It is therefore adjudged and determined that the Plaintiff recover of the Defendant herein the sum of \$51.00 damages and the costs of this action taxed at \$6.30. Total Judgment \$57.30.

Dated January 20th, 1906.

O. C. Bissel,
Justice of the Peace.

January 31st, 1906. Execution issued to collect Judgment \$51.00, costs \$6.30. Total \$57.30, and delivered to Constable H. M. Angier for service.

February 15th, 1906. Execution returned by Constable certifying that the same was satisfied in full. The above judgment is therefore satisfied and discharged of record.

O. C. Bissel,
Justice of the Peace.

February 16th, 1906. Received the above judgment in full.

Sam Brown.

*The Village of Litchfield**Plaintiff**against**John Jones**Defendants*

STATE OF MINNESOTA

County of *Meeker*

SS.

IN JUSTICE'S COURT

Before

*O. C. Bissel**Justice of the Peace*

Bill of Costs

Justice's Fees

<i>Adm'n'ster'g Oath to complainant</i>	15
<i>Drawing Complaint, 2 folios</i>	30
<i>Certifying Oath to Complaint</i>	15
<i>Issuing Warrant</i>	25
<i>Issuing 2 Subpœnas</i>	50
<i>Swearing 7 Witnesses</i>	1 05
<i>Entering 1 Judgment</i>	15
<i>Entering 1 Order for Adjournm't</i>	15
<i>Entering 2 Orders and Exceptions</i>	30
<i>Enter'g Order Discharg'g Prison'r</i>	15
<i>Entering 4 folios, Docket Entries</i>	60
<i>Drawing Papers, 2 folios</i>	30
<i>Filing 5 Papers</i>	25
<i>Taxing Costs</i>	25
<i>Entering Judgment</i>	25
<i>Entering Satisfaction of Judgm't</i>	25
<i>Total, \$</i>	5 05

Officers Fees

<i>Serving Warrant</i>	25
<i>Mileage, Serving Warrant, 2 miles</i>	20
<i>Serving 2 Subpœnas</i>	60
<i>Mileage, Serv'g Subpœnas, 4 miles</i>	40
<i>Attendance in Court, 2 days</i>	2 00
<i>Total, \$</i>	3 45

Witnesses Names and Fees

<i>P. O. Eddy, 1 day and mileage</i>	1 12
<i>A. D. Foss, 1 day and mileage</i>	1 12
<i>C. Anderson, 1 day and mileage</i>	1 12
<i>Total, \$</i>	3 36

Complaint made under Village Ordinance.

Judgment Against Complainant
for Costs.

Litchfield, Minn., January 10, 1906. William Olson came before me and made written complaint under oath against the Defendant John Jones, charging the said Defendant with having been drunk and creating a disturbance on the 8th day of January, 1906, at the Village of Litchfield, and within the corporate limits thereof, in said County, contrary to an ordinance of said Village, and prays that he be arrested. Complaint filed.

William Olson, the complainant, deposited in Court the sum of Five Dollars as security for costs. Warrant issued for the apprehension of the said John Jones and delivered to Constable H. M. Angier for service. Warrant returned by Constable H. M. Angier with his certificate thereon that by virtue of the within Warrant I have arrested the within named Defendant and have him now before the Court in Custody. Constable fees, \$1.45. Warrant filed. Defendant waived the reading of the complaint and plead "not guilty," and demanded trial forthwith. The Court being engaged in the trial of another action cannot hear this case. On motion of the Defendant case set for trial on January 12, 1906. Defendant moves to be released on his personal recognizance. Motion granted. Defendant ordered to appear before this Court for trial on January 12, 1906, at 10 a. m., at my office in the Village of Litchfield, in said County. Subpoena issued on behalf of the Defendant requiring Charles Anderson and A. D. Foss to appear at said hearing. Subpoena issued on behalf of the State requiring Al. Cross and Wm. Dodge to appear at said hearing, and delivered to Constable H. M. Angier for service.

January 11th, 1906. Subpoenas returned and filed by Constable showing personal service upon the within named witnesses. Constable fees, \$1.00.

January 12th, 1906. 10 a. m. Case called. Defendant present in Court. Complainant present in Court. William Olson sworn and testified in behalf of State. Al. Cross and Wm. Dodge each sworn and testified in behalf of State. State rests. Defendant sworn and testified in his own behalf. P. O. Eddy, A. D. Foss and Charles Anderson each sworn and testified in behalf of the Defendant. Defendant rests. Case closed. Defendant files affidavit of mileage and attendance of witnesses. Upon considering the evidence adduced herein, I find the Defendant not guilty, and he is therefore discharged from custody of Constable. I therefore certify that the complaint herein was willful and malicious and without probable cause. It is therefore adjudged and determined that the Complainant, William Olson, pay the total costs of this action, taxed at \$11.76. Dated January 12th, 1906.

O. C. Bissel,

Justice of the Peace.

January 15, 1906. Complainant, William Olson, paid judgment in full less the sum of \$5.00 heretofore deposited in Court.

O. C. Bissel,

Justice of the Peace.

The Village of LitchfieldPlaintiffagainstJohn JonesDefendant

STATE OF MINNESOTA

County of Meeker

SS.

IN JUSTICE'S COURT

Before O. C. BisselJustice of the Peace

Complaint Made Under Village Ordinance. Judgment Against Complainant for Costs.

Litchfield, July 10th, 1909. Wm. Olson came before me, and made and subscribed a written complaint, upon oath, charging John Jones with having on the 8th day of July, 1909, at the Village of Litchfield, and within the corporate limits thereof, in said County, wilfully, wrongfully and unlawfully become intoxicated and creating a disturbance contrary to an ordinance of said Village, and prayed that he be arrested. Complaint filed. The Complainant deposited in Court the sum of \$5.00 as security for costs. Warrant issued, requiring the apprehension forthwith of the said John Jones, and delivered to Constable H. M. Angier for service. Warrant returned by Constable H. M. Angier with his certificate thereon, that by virtue of the within warrant I have arrested the within named Defendant, and have him now before the Court in custody. Constable fees \$1.45. Warrant filed. Defendant waived the reading of the complaint and plead "not guilty," and demanded trial forthwith. The Court being engaged in the trial of another action cannot hear this case. On motion of the Defendant case set for trial July 14th, 1909. Defendant moved to be released on his personal recognizance. Motion granted. Defendant ordered to appear before this Court for trial, on July 14th, 1909, at 10 a. m., at my office in the Village of Litchfield, in said County. Subpoena issued on behalf of the Defendant requiring C. W. Anderson and A. D. Foss to appear at said hearing. Subpoena issued on behalf of the Village requiring Al. Cross and Wm. Dodge to appear at said hearing, both subpoenas delivered to Constable H. M. Angier for service.

July 11th, 1909. Subpoenas returned and filed by Constable H. M. Angier with his certificate thereon, that he served the same upon each of the within named witnesses personally. Constable fees \$1.00.

July 14th, 1909, 10 a. m. Case called. Defendant and Complainant personally present in Court. Witnesses present. Cause tried by the Court. Wm. Olson, Al. Cross and Wm. Dodge sworn and testified in behalf of the Village. Village rests. (Note in order in the docket all objections, rulings and exceptions taken to any testimony.) Defendant sworn and testified in his own behalf. P. O. Eddy, A. D. Foss and C. W. Anderson sworn and testified in behalf of the Defendant. Defendant rests. Wm. Olson testified in rebuttal. Case closed. Defendant filed, duly verified, affidavit of mileage and attendance of witnesses. After considering the evidence adduced herein, it is adjudged that the Defendant is not guilty of the charge alleged in the complaint, and he is discharged from the custody of the Constable. I hereby certify that the complaint herein was wilful and malicious and without probable cause. It is therefore adjudged that the Complainant, Wm. Olson, pay the total costs of this action, taxed at \$12.16.

Dated July 14th, 1909.

O. C. Bissel,
Justice of the Peace.

July 14th, 1909. Wm. Olson paid \$7.16 to the Court, being the balance owed on the above judgment, which is hereby satisfied in full.

O. C. Bissel,
Justice of the Peace.

[illegible]

*The Village of Litchfield**Plaintiff**against**John Jones**Defendant*

STATE OF MINNESOTA

County of *Meeker*

SS.

IN JUSTICE'S COURT

Before

*O. C. Bissel**Justice of the Peace*

Complaint Made Under Village Ordinance.

Jury Trial.

Defendant Found Guilty.

Fine Paid.

Litchfield, January 10, 1906. William Olson came before me, and made and subscribed a written complaint, upon oath, charging John Jones with having on the 8th day of January, 1906, willfully, wrongfully and unlawfully conducted a saloon in the building known as and numbered 27 Main Street, in the Village of Litchfield, in said County, and selling and dispensing liquors without first having obtained license for conducting said business, contrary to an ordinance of said Village and prayed that he be arrested. Complaint filed. Warrant issued requiring the apprehension forthwith of the said John Jones and delivered to Constable H. M. Angier for service.

January 11th, 1906. Warrant returned by Constable H. M. Angier with his certificate thereon, that by virtue of the within warrant, I have arrested the within named Defendant and have him now before the court in custody. Constable fees, \$1.45. Warrant filed. Defendant present in Court with Attorney E. P. Peterson. Village Attorney A. R. Hunt present. Complaint read to Defendant to which he pleads "not guilty." By consent of parties in Court, it is ordered that this case be continued for trial at my office in the Village of Litchfield, in said County, on the 21st day of January, 1906, at 9 a. m., and that Defendant give bail in the sum of Two Hundred Dollars to appear at said time and place. Defendant filed recognizance with sufficient sureties, which was duly approved. Constable ordered to release Defendant from custody.

January 21st, 1906, 9 a. m. Case called. Defendant present in Court with Attorney E. P. Peterson. Village Attorney A. R. Hunt present. Defendant demanded a jury trial. Constable H. M. Angier ordered to draw a jury list of 24 names. Jury list filed, from which Attorneys each strike six names. Venire issued requiring (give list of jurors names) to appear at one o'clock this day and act as jurors in said cause, and delivered to Constable H. M. Angier for service. 1 p. m. Case called; parties all present. Venire returned by Constable with his certificate thereon, that he personally served the same on all but two jurors who could not be found. Jurors present in Court. Constable called (give names) from by-standers to complete jury. Jury examined by Attorneys and accepted. Jury sworn. William Olson, complaining witness, sworn and testified. A. E. Morton, John Olson and A. M. Peterson sworn and testified in behalf of the prosecution. Village rests. John Jones, sworn and testified in his own behalf. Ralph Jones and Wm. Jones sworn and testified in behalf of Defendant. Defendant rests. Case argued and submitted. Constable H. M. Angier sworn to take charge of the jury. Jury retires. Jury returned into Court and reported that they could not agree on a verdict after three hours' deliberation. Jury were discharged. Defendant moved that the case be continued until the 1st day of March, 1906, and stipulated if so continued he expressly waived further trial by jury. By consent of parties it is ordered, that this case be continued for trial at my office in the Village of Litchfield, in said County, on the 1st day of March, 1906, at 1 p. m., and that all witnesses appear before me at said time and place.

March 1st, 1906, 1 p. m. Case called. Defendant present in Court with Attorney E. P. Peterson. Village Attorney A. R. Hunt present. Cause tried by the Court. William Olson, A. E. Morton, John Olson and A. M. Peterson sworn and testified in behalf of prosecution. Village rests. John Jones, Defendant, sworn and testified in his own behalf. Ralph Jones and Wm. Jones each sworn and testified in behalf of the Defendant. Defendant rests. Case submitted. After considering the evidence adduced herein, it is adjudged that the Defendant pay a fine of \$50.00 and the costs of this action taxed at \$37.05, and in default of payment of said fine and costs he be imprisoned in the common jail of said County, for a period of sixty days. Fine and costs paid in Court. It is ordered that Defendant be discharged from custody. Fine paid to Village Recorder, and receipt filed.

Dated March 1st, 1906.

O. C. Bissel,

Justice of the Peace.

Certificate of conviction filed with Clerk of Court.

O. C. Bissel,

Justice of the Peace.

525

<i>The State of Minnesota</i>	STATE OF MINNESOTA County of <i>Meeker</i>	} SS. IN JUSTICE'S COURT Before <u><i>O. C. Bissel</i></u> <i>Justice of the Peace</i>
<i>Plaintiff</i>		
<i>against</i>		
<i>John Jones</i>		
<i>Defendant</i>		

Defendant Convicted. Committed to Jail.

Litchfield, January 10th, 1906. William Olson came before me, and made and subscribed a written complaint, upon oath, charging John Jones with having on the 8th day of January, 1906, at the Village of Litchfield, in said county, willfully, wrongfully and unlawfully made an assault upon him and prayed that he be arrested. Complaint filed.

Warrant issued requiring the apprehension forthwith of the said John Jones and delivered to Constable H. M. Angier for service.

January 15th, 1906. Warrant returned by Constable H. M. Angier with his certificate thereon, that by virtue of the within Warrant I have arrested the within named Defendant and have him now before the Court in custody. Constable fees, \$1.45. Warrant filed. Complaint read to Defendant, to which he enters plea of "not guilty," and demanded trial forthwith, expressly waiving a jury trial. The complaining witness not being in Court, the Court could not proceed and try the case. Defendant moves that the case be continued until the 20th day of January, 1906. Motion granted. It is ordered that the Defendant appear before this Court for trial on the 20th day of January, 1906, at 10 a. m., at my office in the Village of Litchfield, in said County, and that he give bail in the sum of \$50.00 to appear at said time and place. Defendant filed recognizance with sufficient sureties, which was duly approved. Subpoena issued on behalf of State, requiring D. Ferguson and E. Goss to appear at said hearing, and delivered to Constable H. M. Angier for service.

January 19th, 1906. Subpoena returned and filed by Constable H. M. Angier, with his certificate thereon, that he served the same upon each of the within named witnesses personally. Constable fees, \$.50.

January 20th, 1906, 10 a. m. Case called. Defendant and Complainant personally present in Court. Witnesses present in Court. Cause tried by the Court. William Olson, D. Ferguson and E. Goss sworn and testified in behalf of State. State rests. Defendant sworn and testified in his own behalf. Ed. Larson and E. Hunt each sworn and testified in behalf of Defendant. Defendant rests. Case submitted. After considering the evidence adduced herein it is adjudged that the Defendant is guilty as charged in the complaint herein, and that he pay a fine of \$5.00 and the costs of this action, taxed at \$13.21, and in default of the payment of said fine and costs, he be confined in the common jail of said County for a period of ten days. Commitment issued and delivered to Constable H. M. Angier for service.

Certified copy of commitment, together with receipt of Jailor and certificate of service by Constable, returned and filed.

Dated January 20th, 1906.

*O. C. Bissel,
Justice of the Peace.*

January 30th, 1906. Certificate of conviction made and filed with Clerk of Court.

*O. C. Bissel,
Justice of the Peace.*

[illegible]

<u>The State of Minnesota</u>	STATE OF MINNESOTA County of <u>Meeker</u>	SS. IN JUSTICE'S COURT Before <u>O. C. Bissel</u> Justice of the Peace
<u>Plaintiff</u>		
<u>against</u>		
<u>John Jones</u>		
<u>Defendant</u>		

EXAMINATION OF DEFENDANT.

Litchfield, January 10, 1906. William Olson came before me and made and subscribed a written complaint, upon oath, charging John Jones with having on the 8th day of January, 1906, at the Town of Cosmos in said County, feloniously and unlawfully steal, take and carry away from the possession of said William Olson \$100.00, lawful money of the United States, and prayed that he be arrested. Complaint filed. Warrant issued requiring the apprehension forthwith of the said John Jones and delivered to Constable H. M. Angier for service.

January 15th, 1906. Warrant returned by Constable H. M. Angier with his certificate thereon, that by virtue of the within Warrant I have arrested the within named Defendant and have him now before the Court in custody. Constable fees, \$2.75. Warrant filed. Defendant present in Court with Attorney E. P. Peterson. State appears by County Attorney E. W. Campbell. Complaint read to the Defendant. County Attorney not being ready for immediate examination. By consent of parties in Court it is ordered, that this case be continued for hearing at my office in the Village of Litchfield, in said County, on the 30th day of January, 1906, at 1 o'clock p. m. Defendant to give recognizance in the sum of \$500.00 to appear at said time and place. No bail being offered by Defendant, Commitment issued and delivered to Constable H. M. Angier for service. January 21st, 1906, Subpoena issued on behalf of State, requiring C. C. Wilson and Ole Swanson to appear at said examination, and delivered to Constable H. M. Angier for service.

January 30th, 1906. Subpoena returned, filed by Constable, showing personal service upon the within named witnesses. Constable fees, \$1.30. Order to bring up prisoner issued and delivered to Constable H. M. Angier. Order to bring up prisoner, together with Commitment, returned and filed. Constable fees, \$.50. 1 p. m. Case called. Defendant present in Court. Attorneys E. P. Peterson and E. W. Campbell present in Court. Witnesses present. William Olson sworn and testified in behalf of State and his evidence reduced to writing. C. C. Wilson and Ole Swanson each sworn and testified in behalf of the State and their evidence reduced to writing. State rests. Defendant sworn and testified in his own behalf and his evidence reduced to writing. Case closed. All the evidence certified to and filed herein. Upon examination of the above named witnesses in regard to the offense charged and upon examination of all the evidence on file herein, it appears to me that said offense has been committed, and that there is probable cause to believe the Defendant John Jones is guilty thereof, it is ordered that he be held to answer therefor at the next general term of the District Court to be held in said County, and that he give recognizance in the sum of \$500.00 to appear before the Grand Jury at the next general term of the District Court of said County. Defendant offering no bail, Commitment issued and delivered to Constable H. M. Angier for service. Certified copy of Commitment, together with receipt of jailor and certificate of service of Constable, returned and filed. Constable fees, \$.50. Costs taxed at \$20.08.

Dated January 30th, 1906.

O. C. Bissel,
Justice of the Peace.

February 2nd, 1906. A transcript of all the docket entries and testimony of witnesses, together with all the files herein, certified to and delivered to the Clerk of District Court of said County and State.

O. C. Bissel,
Justice of the Peace.

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